

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549**

**FORM 10-K**

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

**For the Fiscal Year Ended December 31, 2008**

OR

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

Commission File Number 000-25032

**UNIVERSAL STAINLESS & ALLOY PRODUCTS, INC.**

(Exact name of Registrant as specified in its charter)

**DELAWARE**  
(State or other jurisdiction of  
incorporation or organization)

**25-1724540**  
(IRS Employer  
Identification No.)

**600 MAYER STREET, BRIDGEVILLE, PA 15017**  
(Address of principal executive offices, including zip code)

**(412) 257-7600**  
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act: [None]

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

Title of Class  
Common Stock, par value \$.001 per share

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

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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

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

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

The aggregate market value of the voting stock held by non-affiliates of the registrant on June 30, 2008, based on the closing price of \$37.04 per share on that date, was \$121,765,000. For the purposes of this disclosure only, the registrant has assumed that its directors, executive officers, and beneficial owners of 5% or more of the registrant's Common Stock are the affiliates of the registrant. The registrant has made no determination that such persons are "affiliates" within the meaning of Rule 405 under the Securities Act of 1933.

As of February 28, 2009, there were 6,732,284 shares of the Registrant's Common Stock issued and outstanding.

**DOCUMENTS INCORPORATED BY REFERENCE**

Part III of this Form 10-K incorporates by reference portions of the Company's definitive Proxy Statement for the Annual Meeting of Stockholders scheduled

to be held May 20, 2009.

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**PART I**

**ITEM 1. BUSINESS**

**GENERAL**

Universal Stainless & Alloy Products, Inc. and its wholly-owned subsidiaries (the “Company”), which was incorporated in 1994, manufactures and markets semi-finished and finished specialty steel products, including stainless steel, tool steel and certain other alloyed steels. The Company’s manufacturing process involves melting, remelting, heat treating, hot and cold rolling, machining and cold drawing of semi-finished and finished specialty steels. The Company’s products are sold to rerollers, forgers, service centers, original equipment manufacturers (“OEMs”) and wire redrawers. The Company’s customers further process its products for use in a variety of industries, including the aerospace, power generation, petrochemical and heavy equipment manufacturing industries. The Company also performs conversion services on materials supplied by customers that lack certain of the Company’s production facilities or that are subject to their own capacity constraints.

The Company is comprised of three operating locations and one corporate headquarters. For segment reporting, the Bridgeville and Titusville facilities have been aggregated into one reportable segment, Universal Stainless & Alloy Products. Dunkirk Specialty Steel represents the second reportable segment.

The Company’s products are manufactured in a wide variety of grades, widths and gauges in response to customer specifications. At its Bridgeville facility, the Company produces specialty steel products in the form of long products (ingots, blooms, billets and bars) and flat rolled products (slabs and plates). Certain grades requiring vacuum-arc remelting (“VAR”) may be transported to the Titusville facility to complete that process and then be transported back to the Bridgeville facility for further processing. The semi-finished long products are primarily used by the Company’s Dunkirk facility and certain customers to produce finished bar, rod and wire products, and the semi-finished flat rolled products are used by customers to produce fine-gauge plate, sheet and strip products. The finished bar products manufactured by the Company are primarily used by OEMs and by service center customers for distribution to a variety of end users. The Company also produces customized shapes primarily for OEMs that are cold rolled from purchased coiled strip, flat bar or extruded bar at its Precision Rolled Products department (“PRP”), located at its Titusville facility.

**INDUSTRY OVERVIEW**

The specialty steel industry is a relatively small but distinct segment of the overall steel industry. Specialty steels include stainless steels, high-speed and tool steels, electrical steels, high-temperature alloys, magnetic alloys and electronic alloys. Specialty steels are made with a high alloy content, which enables their use in environments that demand exceptional hardness, toughness, strength and resistance to heat, corrosion or abrasion, or combinations thereof. Specialty steels generally must conform to more demanding customer specifications for consistency, straightness and surface finish than carbon steels. According to the Specialty Steel Industry of North America (“SSINA”), annual domestic consumption of specialty steels approximated 2.7 million tons in 2007. Of this amount, approximately 1.9 million tons of specialty steels consumed domestically represented stainless steel sheet and strip and electrical alloy products which the Company does not produce. Also, according to SSINA data through November 30, 2008, while U.S. consumption of total specialty steel products in 2008 decreased 15% from 2007 levels, those in the Company’s addressable market were much more favorable, with consumption of stainless steel bar up 2.2%, stainless steel rod down 0.7% and stainless steel wire down 4.0%.

The Company primarily manufactures its products within the following product lines and, generally, in response to customer orders:

*Stainless Steel.* Stainless steel, which represents the largest part of the specialty steel market, contains elements such as nickel, chrome and molybdenum that give it the unique qualities of high strength, good wear characteristics, natural attractiveness, ease of maintenance and resistance to rust, corrosion and heat. Stainless steel is used, among other applications, in the automotive, aerospace and power generation industries, as well as in the manufacture of food handling, health and medical, chemical processing and pollution control equipment. The increased number of applications for stainless steel has resulted in the development of a greater variety of stainless steel metallurgical grades than carbon steel.

*Tool Steel.* Tool steels contain elements of manganese, silicon, chrome and molybdenum to produce specific hardness characteristics that enable tool steels to form, cut, shape and shear other materials in the manufacturing process. Heating and cooling at precise rates in the heat-treating process bring out these hardness characteristics. Tool steels are utilized in the manufacturing of metals, plastics, paper and aluminum extrusions, pharmaceuticals, electronics and optics.

*High-Temperature Alloy Steel.* These steels are designed to meet critical requirements of heat resistance and structural integrity. They generally have very high nickel content relative to other types of specialty steels. High-temperature alloy steels are manufactured for use generally in the aerospace industry.

*High-Strength Low Alloy Steel.* High-strength low alloy steel is a relative term that refers to those steels that maintain alloying elements that range in versatility. The alloy element of nickel, chrome and molybdenum in such steels typically exceeds the alloy element of carbon steels but not that of high-temperature alloy steel. High-strength low alloy steels are manufactured for use generally in the aerospace industry.

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Net sales by principal product line were as follows:

<u>For the years ended December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>	<u>2007</u>	<u>2006</u>
Stainless steel	\$172,222	\$164,228	\$151,633
Tool steel	39,046	28,119	23,389
High-strength low alloy steel	11,936	25,892	16,467
High-temperature alloy steel	7,931	9,317	9,837
Conversion service	1,941	2,011	2,137
Other	2,030	369	410
<b>Total net sales</b>	<b>\$235,106</b>	<b>\$229,936</b>	<b>\$203,873</b>

## RAW MATERIALS

The Company's Bridgeville facility depends on the delivery of key raw materials for its day-to-day operations. These key raw materials are ferrous and non-ferrous scrap metal and alloys, primarily consisting of nickel, chrome, molybdenum and copper. Scrap metal is primarily generated by industrial sources and is purchased through a number of scrap brokers and dealers. Alloys are generally purchased from domestic agents and originate in Australia, Canada, China, Russia and South Africa. Political disruptions in countries such as these could cause supply interruptions and affect the availability and price of the raw materials purchased by the Company.

The Bridgeville facility supplies semi-finished specialty steel products as starting materials to the Company's Titusville and Dunkirk facilities. Semi-finished specialty steel starting materials, not capable of being produced by the Company at a competitive cost, are purchased from other suppliers. The Company generally purchases these starting materials from steel strip coil suppliers, extruders, flat rolled producers and service centers. The Company believes that adequate supplies of starting material will continue to be available.

The cost of raw materials represents more than 60% of the Company's total cost of products sold in 2008 and 2007 due to significant increases in prices for raw materials purchased. Raw material prices vary based on numerous factors, including quality, and are subject to frequent market fluctuations. Future raw material prices can not be predicted with any degree of certainty. Therefore, the Company does not maintain any long-term written agreements with any of its raw material suppliers.

The Company has implemented a sales price surcharge mechanism on its products to help offset the impact of raw material price fluctuations. For substantially all stainless semi-finished products, the surcharge is calculated at the time of order entry, based on current raw material prices. For substantially all finished products and tool steel plate, the surcharge is calculated based on the monthly average raw material prices two months prior to the promised ship date. While the material surcharge mechanism is designed to offset modest fluctuations in raw material prices, it cannot immediately absorb significant spikes in raw material prices. A material change in raw material prices within a short period of time could have a material effect on the financial results of the Company, and there can be no assurance that the raw material surcharge mechanism will completely offset immediate changes in the Company's raw material costs.

## ENERGY AGREEMENTS

The production of specialty steel requires the ready availability of substantial amounts of electricity and natural gas for which the Company negotiates competitive agreements for the supply of electricity and natural gas. While the Company believes that its energy agreements allow it to compete effectively within the specialty steel industry, the potential of curtailments exists as a result of decreased supplies during periods of increased demand for electricity and natural gas. These interruptions not only can adversely affect the operating performance of the Company, but also can lead to increased costs. The Company has a sales price surcharge mechanism on its products to help offset the impact of natural gas price fluctuations.

## CUSTOMERS

The Company's customer base increased from 515 customers at December 31, 2007 to 545 customers at December 31, 2008. The Company's five largest customers in the aggregate accounted for approximately 45% and 49% of net sales for the years ended December 31, 2008 and 2007, respectively. Sales to Carpenter Technology Corporation ("CRS") and Fry Steel Company accounted for 15.3% and 10.7% of the Company's net sales for the year ended December 31, 2008, respectively, and accounted for 13.2% and 13.8% of the Company's net sales for the year ended December 31, 2007, respectively. The accounts receivable balances from these customers comprised approximately 14% and 17% of total accounts receivable at December 31, 2008 and 2007, respectively. No other customer accounted for more than 10% of the Company's net sales for the year ended December 31, 2008. For 2007, Reliance Steel and Aluminum Co. accounted for 10.5% of net sales and 4.2% of accounts receivable.

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### BACKLOG

The Company primarily manufactures products to meet specific customer orders. The Company's backlog of orders on hand, considered to be firm, as of December 31, 2008 was approximately \$75 million as compared to approximately \$85 million at the same time in 2007. The decrease in the backlog is primarily due to reduced aerospace demand from the service center industry, and deteriorating economic and credit conditions. Customer orders are generally subject to cancellation with the payment of a penalty charge prior to delivery. The Company's backlog may not be indicative of actual sales because certain surcharges are not determinable until the order is shipped to the customer and therefore should not be used as a direct measure of future revenue.

### COMPETITION

Competition in the Company's markets is based upon product quality, delivery capability, customer service and price. Maintaining high standards of product quality, while responding quickly to customer needs and keeping production costs at competitive levels, is essential to the Company's ability to compete in its markets.

Annual domestic U.S. consumption of specialty steel products of the type manufactured by the Company approximates 800,000 tons. The Company chooses to restrict its participation in this market by limiting the volume of commodity stainless steel products it markets because of the highly competitive nature of the commodity business.

The Company believes that nine domestic companies that manufacture one or more similar specialty steel products are significant competitors, including Allegheny Technologies Incorporated ("ATI") and CRS. There are many smaller producing companies and material converters in the United States that are also considered to be competitors of the Company.

High import penetration of specialty steel products, especially stainless and tool steels, also impacts the competitive nature within the United States. Unfair pricing practices by foreign producers have resulted in high import penetration into the U.S. markets in which the Company participates. According to SSINA, import penetration for the years ended December 31, 2007 and 2006 was 54% and 52%, respectively, for stainless bar, and 48% and 44%, respectively, for stainless rod. Import penetration for stainless bar was 53% and 49% for stainless rod during the first eleven months of 2008.

The Continued Dumping and Subsidy Offset Act of 2000 (the "CDSOA") provides for payment of import duties collected by the U.S. Treasury to domestic companies injured by unfair foreign trade practices. The assets purchased for the operations of Dunkirk Specialty Steel were previously owned and operated by AL Tech Specialty Steel, Inc. and Empire Specialty Steel, Inc. During their ownership, both organizations participated in several anti-dumping lawsuits with other domestic specialty steel producers. The Company has joined other domestic producers in the filing of trade actions against foreign producers.

In December 2008, the Company received an import duty net payment of \$599,000, and, in December 2007, the Company received a net payment of \$586,000. Benefits awarded from the CDSOA expired on September 30, 2007. Future benefits are dependent on the amount of undistributed import duties collected as of September 30, 2007 and the relationship of Dunkirk Specialty Steel's claim in relation to claims filed by other domestic specialty steel producers.

### EMPLOYEE RELATIONS

The Company considers the maintenance of good relations with its employees to be important to the successful conduct of its business. The Company has profit-sharing plans for certain salaried employees and for all of its employees represented by United Steelworkers (the "USW") and has equity ownership programs for all of its eligible employees, in an effort to forge an alliance between its employees' interests and those of the Company's stockholders. At December 31, 2008, the Company had 303 employees at its Bridgeville facility, 45 employees at its Titusville facility and 166 employees at its Dunkirk facility, of which 238, 38 and 141 were USW members, respectively.

#### **Collective Bargaining Agreements**

The Company recognizes the USW as the exclusive representative for the Company's hourly employees with respect to the terms and conditions of their employment. The Company has entered into the following collective bargaining agreements:

<u>Facility</u>	<u>Commencement Date</u>	<u>Expiration Date</u>
Titusville	October 2005	September 2010
Dunkirk	November 2007	October 2012
Bridgeville	September 2008	August 2013

The Company believes a critical component of its collective bargaining agreements is the inclusion of a profit sharing plan. Under the plan, the hourly employees are entitled to receive 8.5% of their respective facilities' annual pretax profits in excess of \$1.0 million at Bridgeville and Dunkirk, and in excess of \$500,000 at Titusville.

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**Employee Benefit Plans**

The Company provides group life and health insurance plans for its hourly and salaried employees. The Company also maintains separate 401(k) retirement plans for its hourly and salaried employees. Pursuant to each 401(k) plan, participants may elect to make pre-tax and after-tax contributions, subject to certain limitations imposed under the Internal Revenue Code of 1986, as amended. In addition, the Company makes periodic contributions to the 401(k) plans based on service, except as described below.

The Company also participates in the Steelworkers Pension Trust (the "Trust"), a multi-employer defined-benefit pension plan that is open to all hourly and salaried employees associated with the Bridgeville facility. The Company makes periodic contributions to the Trust based on hours worked at a fixed rate for each hourly employee and a fixed monthly contribution on behalf of each salaried employee. The hourly employees may continue their contributions to the 401(k) retirement plan even if the Company contributions cease. The amount of the contribution for salaried employees will be dependent upon their contribution to the 401(k) retirement plan.

**Employee Stock Purchase Plan**

Under the 1996 Employee Stock Purchase Plan, as amended (the "Plan"), the Company is authorized to issue up to 150,000 shares of Common Stock to its full-time employees, nearly all of whom are eligible to participate. Under the terms of the Plan, employees can choose as of January 1 and July 1 of each year to have up to 10% of their total earnings withheld to purchase up to 100 shares of the Company's Common Stock each six-month period. The purchase price of the stock is 85% of the lower of its beginning-of-the-period or end-of-the-period market prices. At December 31, 2008, the Company had issued 104,247 shares of Common Stock since the plan's inception.

**Safety**

The Company has established and seeks to maintain appropriate safety standards and policies for its employees. To encourage plant safety, the USW agreements provide that employees will be entitled to receive 50% of the savings, if any, of reduced workers' compensation insurance premiums obtained due to reductions in the state experience modifier issued to the Company.

**ENVIRONMENTAL**

The Company is subject to federal, state and local environmental laws and regulations (collectively, "Environmental Laws"), including those governing discharges of pollutants into the air and water, and the generation, handling and disposal of hazardous and non-hazardous substances. The Company monitors its compliance with Environmental Laws applicable to it and, accordingly, believes that it is currently in compliance with all laws and regulations in all material respects. The Company is subject periodically to environmental compliance reviews by various regulatory offices. The Company may be liable for the remediation of contamination associated with generation, handling and disposal activities. Environmental costs could be incurred, which may be significant, related to environmental compliance, at any time or from time to time in the future.

**EXECUTIVE OFFICERS**

The following table sets forth, as of February 28, 2009, certain information with respect to the executive officers of the Company:

<u>NAME (AGE)</u>	<u>EXECUTIVE OFFICER SINCE</u>	<u>POSITION</u>
Dennis M. Oates (56)	2008	President and Chief Executive Officer
William W. Beible, Jr. (57)	2009	Senior Vice President of Operations
Paul McGrath (57)	1996	Vice President of Administration, General Counsel and Secretary
Richard M. Ubinger (49)	1994	Vice President of Finance, Chief Financial Officer and Treasurer

Dennis M. Oates has been President and Chief Executive Officer of the Company since January 2008. Mr. Oates was named to the Company's Board of Directors in October 2007. Mr. Oates previously served as Senior Vice President of the Specialty Alloys Operations of CRS from 2003 to July 2007. Mr. Oates also served as President and Chief Executive Officer of TW Metals, Inc. from 1998 to 2003.

On February 11, 2009, the Company announced the appointment of William W. Beible, Jr. as Senior Vice President of Operations of the Company. Mr. Beible was employed by CRS from 2006 to 2008 and served in several positions including Vice President of Manufacturing - Specialty Alloys Operations. Mr. Beible also served as Vice President of Business Improvement and of Information Technology at P.H. Glatfelter Company, a global supplier of specialty papers and engineered products, from 2003 to 2005.

Paul A. McGrath has been Vice President of Administration of the Company since January 2007, General Counsel since January 1995 and was appointed Secretary in May 1996. Mr. McGrath served as Vice President of Operations from 2001 to December 2006. Previously, he was employed by Westinghouse Electric Corporation for approximately 24 years in various management positions.

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Richard M. Ubinger has been Vice President of Finance of the Company since March 2001, Chief Financial Officer and Principal Accounting Officer since August 1994 and was appointed Assistant Secretary in November 1995 and Treasurer in May 1996. From 1981 to 1994, Mr. Ubinger was employed by Price Waterhouse LLP. Mr. Ubinger is a Certified Public Accountant.

### PATENTS AND TRADEMARKS

The Company does not consider its business to be materially dependent on patent or trademark protection, and believes it owns or maintains effective licenses covering all the intellectual property used in its business. The Company seeks to protect its proprietary information by use of confidentiality and non-competition agreements with certain employees.

### AVAILABLE INFORMATION

Copies of the Company's Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, current reports on Form 8-K, and any amendments to those reports, as well as proxy and information statements that we file with the Securities and Exchange Commission (the "SEC"), are available free of charge on the Company's website at [www.univstainless.com](http://www.univstainless.com) as soon as reasonably practicable after such reports are filed with the SEC. The contents of our website are not part of this Form 10-K. You also may read and copy any materials we file with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Washington, DC 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an Internet site at [www.sec.gov](http://www.sec.gov) that contains reports, proxy and information statements and other information regarding issuers, like the Company, that file electronically with the SEC.

### ITEM 1A. RISK FACTORS

The Company's business and results of operations are subject to a wide range of substantial business and economic factors including, but not limited to, the factors discussed below, many of which are not within the Company's control. Other factors of which the Company is unaware or which the Company does not consider to be material at this time also may impact the Company's business and results of operations. See the information under the heading "Forward-Looking Information Safe Harbor" in Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations, of this Annual Report on Form 10-K.

### SIGNIFICANT CUSTOMERS AND CONCENTRATED CUSTOMER BASE

Net sales to the Company's two largest customers and their affiliates approximated 26% and 27% of total 2008 and 2007 sales, respectively. The accounts receivable balances from these customers comprised approximately 14% and 17% of total accounts receivable at December 31, 2008 and 2007, respectively. For 2007, the third largest customer accounted for 10.5% of net sales and 4.2% of accounts receivable. An adverse change in, or termination of, the Company's relationship with one or more of its major customers or one or more of its market segments could have a material adverse effect upon the Company. See the information under the heading "Customers" in Item 1, Business, of this Annual Report on Form 10-K.

### COMPETITION

The Company competes with domestic and foreign sources of specialty steel products. In addition, many of the finished products sold by the Company's customers are in direct competition with finished products manufactured by foreign sources, which may affect the demand for those customers' products. Any competitive factors that adversely affect the market for finished products manufactured by the Company or its customers could indirectly adversely affect the demand for the Company's semi-finished products. Additionally, the Company's products compete with products fashioned from alternative materials such as aluminum, composites and plastics, the production of which includes domestic and foreign enterprises. Competition in the Company's field is intense and is expected to continue to be so in the foreseeable future. There can be no assurance that the Company will be able to compete successfully in the future. See the information under the heading "Competition" in Item 1, Business, of this Annual Report on Form 10-K.

### AEROSPACE MARKET

Approximately 34% of the Company's sales and 27% of tons shipped represent products sold to customers in the aerospace market. The aerospace market is historically cyclical due to both external and internal market factors. These factors include general economic conditions, diminished credit availability, airline profitability, demand for air travel, age of fleets, varying fuel and labor costs, price competition, and international and domestic political conditions such as military conflict and the threat of terrorism. The length and degree of cyclical fluctuation can be influenced by any one or a combination of these factors and therefore are difficult to predict with certainty. A downturn in the aerospace industry would adversely affect the demand for products and/or the prices at which the Company is able to sell its products, and its results of operations, business and financial condition could be materially adversely affected.



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### SUPPLY OF RAW MATERIALS AND COST OF RAW MATERIALS

The Company relies on a limited number of suppliers, some of which are foreign owned, for its raw material needs. Raw material prices are affected by cyclical, seasonal and other market factors. Alloys consumed by the Company are primarily available from foreign sources, some of which are located in countries that may be subject to unstable political and economic conditions. Those conditions might disrupt supplies or affect the prices of the raw materials used by the Company. The Company does not maintain long-term supply agreements with any of its independent suppliers. If its supply of raw materials were interrupted, the Company might not be able to obtain sufficient quantities of raw materials, or obtain sufficient quantities of such materials at satisfactory prices, which, in either case, could adversely affect the Company's results of operations. In addition, significant volatility in the price of the Company's principal raw materials could adversely affect the Company's financial results and there can be no assurance that the raw material surcharge mechanism employed by the Company will completely offset immediate changes in the Company's raw material costs. See the information under the headings "Raw Materials" in Item 1, Business, and "Liquidity and Capital Resources" and "Future Outlook" in Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations, of this Annual Report on Form 10-K.

### CURRENT GLOBAL ECONOMIC AND MARKET FACTORS

Our results of operations are affected directly by the level of business activity of our customers, which in turn is affected by global economic and market factors impacting the industries and markets that they serve. As has been widely reported, the financial markets and overall economies in the United States and abroad are currently undergoing a period of significant uncertainty and volatility. Economic slowdowns in certain markets or an extension of the current credit crisis to additional industries, particularly in the United States, may adversely impact overall demand for our products, which could have a negative effect on our revenues. Further, there can be no assurance that any governmental responses to recent disruptions in the financial markets ultimately will stabilize the markets or increase our customers' liquidity or the availability of credit to our customers. The global financial crisis also may have an impact on our business and financial condition in ways that we currently cannot predict. As a result, there can be no assurance that global economic and market conditions will not adversely impact our results of operations, cash flow or financial position in the future.

### RELIANCE ON ENERGY AGREEMENTS

The manufacturing of specialty steels is an energy-intensive industry. While the Company believes that its energy agreements allow it to compete effectively within the specialty steel industry, the Company is subjected to curtailments as a result of decreased supplies and increased demand for electricity and natural gas. These interruptions not only can adversely affect the operating performance of the Company, but also can lead to increased costs for energy. See the information under the heading "Energy Agreements" in Item 1, Business, of this Annual Report on Form 10-K.

### LABOR MATTERS

The Company has 417 employees out of a total of 514 who are covered under collective bargaining agreements. There can be no assurance that the Company will succeed in concluding collective bargaining agreements with the union to replace the ones that expire.

### RELIANCE ON CRITICAL MANUFACTURING EQUIPMENT

The Company's manufacturing processes are dependent upon certain critical pieces of specialty steel making equipment, such as the Company's 50-ton electric-arc furnace and AOD (Argon Oxygen Decarburization) vessel, its ESR (Electro Slag Remelt) and VAR furnaces, and its universal rolling mill. In the event a critical piece of equipment should become inoperative as a result of unexpected equipment failure, there can be no assurance that the Company's operations would not be substantially curtailed, which may have a negative effect on the Company's financial results. See Item 2, Properties.

### ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

### ITEM 2. PROPERTIES

The Company owns its Bridgeville facility, which consists of approximately 760,000 square feet of floor space and the Company's executive offices on approximately 74 acres. The Bridgeville facility contains melting, remelting, conditioning, rolling, annealing and various other processing equipment. Substantially all products shipped from the Bridgeville facility are processed through its melt shop and universal rolling mill operations.

The Company owns its Titusville facility, which consists of seven buildings on approximately 10 acres, including two principal buildings of approximately 265,000 square feet in total area. The Titusville facility contains five VAR furnaces and various rolling and finishing equipment.

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The Company owns its Dunkirk facility, which consists of approximately 680,000 square feet of floor space on approximately 81 acres. The Dunkirk facility processes semi-finished billet and bar stock through one or more of its four rolling mills, a high temperature annealing facility and/or a round bar facility. The products are then finished and shipped as finished bar, rod and wire products.

Specialty steel production is a capital-intensive industry. The Company believes that its facilities and equipment are suitable for its present needs. The Company believes, however, that it will continue to require capital from time to time to add new equipment and to repair or replace existing equipment to remain competitive and to enable it to manufacture quality products and provide delivery and other support service assurances to its customers.

### ITEM 3. LEGAL PROCEEDINGS

From time to time, various lawsuits and claims have been or may be asserted against the Company relating to the conduct of its business, including routine litigation relating to commercial and employment matters. The ultimate cost and outcome of any litigation or claim cannot be predicted with certainty. Management believes, based on information presently available, that the likelihood that the ultimate outcome of any such pending matter will have a material adverse effect on its financial condition, or liquidity or a material impact to our results of operations is remote, although the resolution of one or more of these matters may have a material adverse effect on its results of operations for the period in which the resolution occurs.

### ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No matters were submitted to a vote of security holders during the fourth quarter of 2008.

## PART II

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

At December 31, 2008, a total of 7,003,079 shares of the Company's Common Stock, par value \$.001 per share, were issued and held by approximately 148 holders of record. There were 270,795 shares of the issued Common Stock of the Company held in treasury at December 31, 2008.

Certain holders of Common Stock and the Company are party to a stockholder agreement. That agreement maintains in effect certain registration rights granted to non-management stockholders, which provides to them two demand registration rights exercisable at any time upon written request for the registration of Restricted Shares of Common Stock having an aggregate net offering price of at least \$5,000,000.

#### PRICE RANGE OF COMMON STOCK

The Common Stock is listed on the NASDAQ Global Market under the symbol "USAP." The following table sets forth the range of high and low sale prices per share of Common Stock, for the periods indicated below:

	2008		2007	
	High	Low	High	Low
First quarter	\$34.80	\$24.05	\$51.80	\$31.79
Second quarter	\$41.50	\$30.00	\$54.17	\$34.98
Third quarter	\$38.50	\$25.55	\$42.66	\$28.48
Fourth quarter	\$24.23	\$ 8.85	\$41.71	\$29.88

#### EQUITY COMPENSATION PLAN INFORMATION

Securities authorized for issuance under equity compensation plans at December 31, 2008 are as follows:

Plan Category	Number of shares to be issued upon exercise of outstanding options	Weighted-average exercise price of outstanding options	Number of shares remaining available for future issuance under equity compensation plans <sup>A</sup>
Equity compensation plans approved by security holders	479,550	\$ 21.77	298,671
Equity compensation plans not approved by security holders	—	—	—
Total	<u>479,550</u>	<u>\$ 21.77</u>	<u>298,671</u>

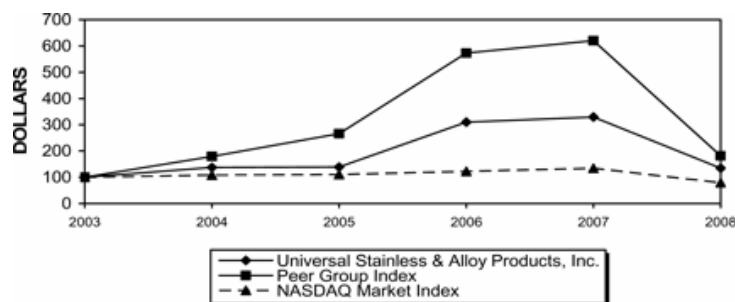
<sup>A</sup> Includes 252,918 shares of Common Stock on stock options not issued under the Stock Incentive Plan and 45,753 available under the 1996 Employee Stock Purchase Plan, as amended.

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PERFORMANCE GRAPH

The performance graph below compares the cumulative total shareholder return on the Company's stock with the cumulative total return on the equity securities of NASDAQ Market Index and a peer group selected by the Company consisting of ATI and CRS. The graph assumes an investment of \$100 on December 31, 2003 and reinvestment of dividends, if any, on the date of dividend payment. The performance graph represents past performance and should not be considered to be an indication of future performance.

**Comparison of 5-Year Cumulative Total Shareholder Return among Universal Stainless & Alloy Products, Inc., the NASDAQ Market Index and a Peer Group Index**



Company/Peer/Market	Fiscal Year Ending December 31,					
	2003	2004	2005	2006	2007	2008
Universal Stainless & Alloy Products, Inc.	\$100.00	\$137.52	\$138.89	\$310.00	\$329.35	<b>\$134.17</b>
Company Selected Peer Group	100.00	179.13	265.68	573.03	620.19	<b>181.80</b>
NASDAQ Market Index	100.00	108.41	110.79	122.16	134.29	<b>79.25</b>

PREFERRED STOCK

The Company's Certificate of Incorporation provides that the Company may, by vote of its Board of Directors, issue up to 1,980,000 shares of Preferred Stock. The Preferred Stock may have rights, preferences, privileges and restrictions thereon, including dividend rights, dividend rates, conversion rights, voting rights, terms of redemption, redemption prices, liquidation preferences and the number of shares constituting any series or designation of such series, without further vote or action by the stockholders. The issuance of Preferred Stock may have the effect of delaying, deferring or preventing a change in control of the Company without further action by the stockholders and may adversely affect the voting and other rights of the holders of Common Stock. The issuance of Preferred Stock with voting and conversion rights may adversely affect the voting power of the holders of Common Stock, including the loss of voting control to others. The Company has no outstanding Preferred Stock and has no plans to issue any of the authorized Preferred Stock.

DIVIDENDS

The Company has never paid a cash dividend on its Common Stock. The Company's Credit Agreement with PNC Bank, National Association ("PNC Bank") currently limits the payment of cash dividends payable on its Common Stock to 50% of the Company's excess cash flow per fiscal year. Excess cash flow represents the amount of the Company's earnings before interest, taxes, depreciation and amortization that is greater than the sum of the Company's payments for interest, income taxes, the principal portion of long-term debt and capital lease obligations, and capital expenditures.

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**ITEM 6. SELECTED FINANCIAL DATA**

<u>For the years ended December 31,</u> <i>(dollars in thousands, except per share amounts)</i>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
<b>SUMMARY OF OPERATIONS</b>					
Net sales	<b>\$235,106</b>	\$229,936	\$203,873	\$170,022	\$120,642
Operating income	<b>19,092</b>	33,407	32,359	20,145	10,955
Net income	<b>13,950</b>	22,504	20,590	12,758	7,553
<b>FINANCIAL POSITION AT YEAR-END</b>					
Cash and cash equivalents	<b>\$ 14,812</b>	\$ 10,648	\$ 2,909	\$ 620	\$ 241
Total assets	<b>182,944</b>	164,296	155,287	129,239	108,536
Long-term debt	1,046	1,453	17,228	17,317	12,190
Stockholders' equity	145,700	129,602	104,654	81,134	67,365
<b>COMMON SHARE DATA</b>					
Basic earnings per share	<b>\$ 2.08</b>	\$ 3.39	\$ 3.19	\$ 2.00	\$ 1.20
Diluted earnings per share	<b>2.05</b>	3.32	3.11	1.97	1.18

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

**RESULTS OF OPERATIONS**

Universal Stainless & Alloy Products, Inc., headquartered in Bridgeville, Pa., manufactures and markets a broad line of semi-finished and finished specialty steels, including stainless steel, tool steel and certain other alloyed steels. The Company's products are sold to rollers, forgers, service centers, OEMs and wire redrawers.

An analysis of the Company's operations is as follows:

<u>For the years ended December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>		<u>2007</u>		<u>2006</u>	
	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>
<b>NET SALES</b>						
Stainless steel	<b>\$172,222</b>	<b>73.2%</b>	\$164,228	71.4%	\$151,633	74.4%
Tool steel	<b>39,046</b>	<b>16.6</b>	28,119	12.2	23,389	11.5
High-strength low alloy steel	<b>11,936</b>	<b>5.1</b>	25,892	11.3	16,467	8.1
High-temperature alloy steel	<b>7,931</b>	<b>3.4</b>	9,317	4.0	9,837	4.8
Conversion services	<b>1,941</b>	<b>0.8</b>	2,011	0.9	2,137	1.0
Other	<b>2,030</b>	<b>0.9</b>	369	0.2	410	0.2
Total net sales	<b>235,106</b>	<b>100.0</b>	229,936	100.0	203,873	100.0
Total cost of products sold	<b>204,929</b>	<b>87.2</b>	184,491	80.3	160,722	78.8
Selling and administrative expenses	<b>11,085</b>	<b>4.7</b>	12,038	5.2	10,792	5.3
Operating income	<b>\$ 19,092</b>	<b>8.1%</b>	\$ 33,407	14.5%	\$ 32,359	15.9%

Net sales by market segment are as follows:

<u>For the years ended December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>		<u>2007</u>		<u>2006</u>	
	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>
Service centers	<b>\$110,889</b>	<b>47.2%</b>	\$119,736	52.1%	\$101,510	49.8%
Forgers	<b>52,551</b>	<b>22.4</b>	47,711	20.7	38,539	18.9
Rerollers	<b>41,660</b>	<b>17.7</b>	35,006	15.2	33,273	16.3
Original equipment manufacturers	<b>18,955</b>	<b>8.1</b>	18,287	8.0	18,368	9.0
Wire redrawers	<b>7,129</b>	<b>3.0</b>	6,843	3.0	9,660	4.8
Conversion services	<b>1,941</b>	<b>0.8</b>	2,011	0.9	2,137	1.0
Miscellaneous	<b>1,981</b>	<b>0.8</b>	342	0.1	386	0.2
Net sales	<b>\$235,106</b>	<b>100.0%</b>	\$229,936	100.0%	\$203,873	100.0%
Tons shipped	<b>45,679</b>		43,644		50,485	

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**2008 Results as Compared to 2007:** The increase in net sales in 2008 is primarily due to a 5% increase in tonnage shipped, partially offset by product mix changes and lower raw material surcharges. Shipments of tool steel plate products, petrochemical products and power generation products increased 22%, 15% and 16%, respectively, over 2007. These increases were mostly offset by a 17% decrease in aerospace product shipments. The reduced demand for aerospace products was partially due to the Boeing work stoppage during 2008 and by conservative service center purchasing practices in anticipation of lower surcharges due to falling commodity prices. The assessment of lower surcharges is primarily due to a decline in the average cost of nickel from \$16.89 in 2007 to \$9.58 in 2008 partially offset by increase costs of chrome and carbon scrap. In addition, miscellaneous sales benefitted from the \$1.1 million sale of excess scrap in June 2008.

Cost of products sold, as a percentage of net sales, increased in 2008 as compared to 2007. This increase is primarily due to the shift in sales from service centers to forgers and rollers, timing of raw material purchases and the assessment of the related surcharges, and operation cost increases. A significant portion of the raw material timing issue occurred during the 2008 fourth quarter. From September 2008 to December 2008, the average cost of nickel and chrome declined 46%, while molybdenum declined 70% and carbon scrap declined 56%. These declines resulted in the Company increasing its inventory reserves by \$1.0 million in 2008. The significant decline in material costs will continue to negatively impact the Company's financial results during the first half of 2009. Operation costs were negatively impacted by a \$1.6 million increase in natural gas costs, resulting from rate increases of approximately 25% at the Bridgeville facility, and a \$2.8 million increase in labor costs. In addition, the Company expensed \$834,000 related to the relocation of the Company's round bar finishing line from Bridgeville to Dunkirk in 2008.

Selling and administrative expenses decreased from \$12.0 million, or 5.2% of net sales to \$11.1 million, or 4.7% of net sales, primarily due to the 2007 settlement of a lawsuit between the Company and Teledyne Technologies Incorporated ("Teledyne"). Management continuously monitors its selling and administrative expenses in relation to net sales.

Interest expense and other financing costs decreased from \$731,000 in 2007 to \$105,000 in 2008. The decrease is primarily due to the December 2007 retirement of the \$7.5 million outstanding balance on the Company's term loan with PNC Bank.

Other income, net increased to \$911,000 in 2008 from \$776,000 in 2007. This increase is primarily attributed to additional interest income of \$91,000 earned from excess cash invested during 2008. In addition, the Company received funds under the CDSOA of \$599,000 and \$586,000 in 2008 and 2007, respectively.

The effective income tax rates for the years ended December 31, 2008 and 2007 were 29.9% and 32.7%, respectively. The change in the effective income tax rate is primarily due to the impact of the lower income level on the Company's permanent tax deductions and favorable adjustments to state income provisions.

**2007 Results as Compared to 2006:** The increase in net sales in 2007 reflects increased selling prices, primarily a result from the impact of higher raw material surcharges assessed and an increase in higher value-added products, partially offset by lower shipments overall. In 2007, shipments of petrochemical products, power generation products and aerospace products decreased 34%, 25% and 10%, respectively, compared with 2006. Raw material surcharges continued to escalate during 2007, led by an increase in the monthly average nickel prices from \$15.68 in December 2006 to a high of \$23.67 in May 2007. After May 2007, the monthly average nickel prices declined to \$11.79 in December 2007. This decrease will reduce raw material surcharges assessed on future shipments if the average nickel price remains at lower levels.

Cost of products sold, as a percentage of net sales, increased in 2007 as compared to 2006. This increase is primarily due to higher raw material costs, which are generally reimbursed by the customer through raw material surcharges, and operation cost increases.

Selling and administrative expenses increased to \$12.0 million, or 5.2% of net sales from \$10.8 million, or 5.3% of net sales, primarily due to higher employment costs and the settlement of a lawsuit between the Company and Teledyne. The higher employment costs were primarily due to the addition of a corporate officer in 2007 and an increase in stock compensation expense from \$273,000 in 2006 to \$427,000 in 2007. This increase was partially offset by a \$367,000 expense related to a software project the Company terminated, the establishment of a \$193,000 reserve for an EPA violation which was settled in 2007 and \$200,000 for certain commercial product-claim issues during 2006.

Interest expense and other financing costs decreased from \$1.1 million in 2006 to \$731,000 in 2007. The decrease is primarily due to a decline in the average balance of the revolving line of credit over the prior year, as well as recognizing lower interest expense associated with the funding of scheduled payments on the existing term debt of the Company. In December 2007, the Company retired the \$7.5 million outstanding balance on its PNC Term Loan which was not scheduled to mature until June 30, 2011.

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Other income, net increased from \$522,000 in 2006 to \$776,000 in 2007. This increase is primarily attributed to the receipt of funds under the CDSOA of \$586,000 in 2007 in comparison to \$463,000 in 2006. In addition, the Company recognized \$178,000 of interest income from excess cash invested during the second half of 2007.

The effective income tax rates for the years ended December 31, 2007 and 2006 were 32.7% and 35.2%, respectively. The reduction in the effective income tax rate in 2007 reflects an increase in the Company's permanent tax deductions, related to an increase in the manufacturer's production activities deduction and the recognition of additional permanent tax deductions as a result of reconciling its 2006 federal and state tax returns filed during the period to the tax provision recognized for the year ended December 31, 2006. The 2007 rate also reflects a favorable shift in the apportionment of taxable income for state income tax purposes.

### Business Segment Results

The Company is comprised of three operating locations and one corporate headquarters. For segment reporting, the Bridgeville and Titusville facilities have been aggregated into one reportable segment, Universal Stainless & Alloy Products, because of the management reporting structure in place. The Universal Stainless & Alloy Products manufacturing process involves melting, remelting, treating and hot and cold rolling of semi-finished and finished specialty steels. Dunkirk Specialty Steel's manufacturing process involves hot rolling and finishing specialty steel bar, rod and wire products.

#### UNIVERSAL STAINLESS & ALLOY PRODUCTS SEGMENT

An analysis of the segment's operations is as follows:

For the years ended December 31, (dollars in thousands)	2008		2007		2006	
	Amount	%	Amount	%	Amount	%
<b>NET SALES</b>						
Stainless steel	\$121,612	58.9%	\$108,535	53.6%	\$102,372	57.1%
Tool steel	37,631	18.2	25,638	12.7	21,747	12.1
High-strength low alloy steel	3,881	1.9	12,764	6.3	8,177	4.6
High-temperature alloy steel	2,977	1.4	4,067	2.0	3,787	2.1
Conversion service	1,278	0.6	1,405	0.7	1,530	0.9
Other	1,875	0.9	295	0.1	325	0.2
	<b>169,254</b>	<b>81.9</b>	152,704	75.4	137,938	77.0
Intersegment	37,384	18.1	49,858	24.6	41,232	23.0
Total net sales	<b>206,638</b>	<b>100.0</b>	202,562	100.0	179,170	100.0
Material cost of sales	114,930	55.6	106,456	52.6	85,298	47.6
Operation cost of sales	68,415	33.1	67,286	33.2	66,806	37.3
Selling and administrative expenses	7,613	3.7	8,345	4.1	7,392	4.1
Operating income	<b>\$ 15,680</b>	<b>7.6%</b>	\$ 20,475	10.1%	\$ 19,674	11.0%

Net sales for the year ended December 31, 2008 increased \$4.1 million, or 2%, in comparison to the year ended December 31, 2007 primarily due to a 2% increase in tonnage shipped and by product mix changes, partially offset by lower raw material surcharges discussed above. Shipments of tool steel plate products, petrochemical products and power generation products increased 20%, 17% and 15%, respectively, over 2007. These increases were mostly offset by a 20% decrease in aerospace product shipments. In addition, other sales benefitted from the \$1.1 million sale of excess scrap in 2008. Operating income for the year ended December 31, 2008 decreased \$4.8 million, primarily due the decline in aerospace sales, and the timing of raw material purchases that resulted in the material cost of sales increasing from 52.6% to 55.6%.

Net sales for the year ended December 31, 2007 increased by \$23.4 million, or 13.1%, in comparison to the year ended December 31, 2006 primarily due to raw material surcharge increases, which offset increased material cost of sales of \$21.2 million for the period. Shipments of petrochemical products, power generation products and aerospace products decreased 38%, 24% and 8%, respectively, compared with 2006. Operating income for the year ended December 31, 2007 increased by \$801,000 primarily due to improved mix of products shipped and higher selling prices, partially offset by an increase in the material cost of sales from 47.6% to 52.6%

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### DUNKIRK SPECIALTY STEEL SEGMENT

An analysis of the segment's operations is as follows:

For the years ended December 31, (dollars in thousands)	2008		2007		2006	
	Amount	%	Amount	%	Amount	%
<b>NET SALES</b>						
Stainless steel	\$50,610	72.8%	\$55,693	68.2%	\$49,261	70.1%
High-strength low alloy steel	8,055	11.6	13,128	16.1	8,290	11.8
High-temperature alloy steel	4,954	7.1	5,250	6.4	6,050	8.6
Tool steel	1,415	2.0	2,481	3.0	1,642	2.3
Conversion services	663	1.0	606	0.7	607	0.9
Other	155	0.2	74	0.1	85	0.1
	<u>65,852</u>	<u>94.7</u>	<u>77,232</u>	<u>94.5</u>	<u>65,935</u>	<u>93.8</u>
Intersegment	<u>3,712</u>	<u>5.3</u>	<u>4,493</u>	<u>5.5</u>	<u>4,320</u>	<u>6.2</u>
Total net sales	<u>69,564</u>	<u>100.0</u>	<u>81,725</u>	<u>100.0</u>	<u>70,255</u>	<u>100.0</u>
Material cost of sales	<u>44,215</u>	<u>63.6</u>	<u>47,905</u>	<u>58.6</u>	<u>38,705</u>	<u>55.1</u>
Operation cost of sales	<u>18,465</u>	<u>26.5</u>	<u>17,404</u>	<u>21.3</u>	<u>16,678</u>	<u>23.8</u>
Selling and administrative expense	<u>3,472</u>	<u>5.0</u>	<u>3,693</u>	<u>4.5</u>	<u>3,400</u>	<u>4.8</u>
Operating income	<u>\$ 3,412</u>	<u>4.9%</u>	<u>\$12,723</u>	<u>15.6%</u>	<u>\$11,472</u>	<u>16.3%</u>

Net sales for the year ended December 31, 2008 decreased \$12.2 million, or 15%, in comparison to the year ended December 31, 2007 primarily due to a 10% decrease in shipments as well as the impact of lower raw material surcharges. Shipments of aerospace products and commodity grade products decreased 23% and 24%, respectively, which were partially offset by a 33% increase in petrochemical products. Operating income for the year ended December 31, 2008 decreased \$9.3 million primarily due to the decline in aerospace sales and the timing of raw material purchases that resulted in the material cost of sales increasing from 58.6% to 63.6% and higher operation costs due to \$834,000 of costs related to relocation of the round bar finishing line from Bridgeville to Dunkirk.

Net sales for the year ended December 31, 2007 for this segment increased by \$11.5 million, or 16.3%, in comparison to the year ended December 31, 2006 primarily due to raw material surcharge increases, which more than offset increased material cost of sales of \$9.2 and lower shipments for the period. Shipments of petrochemical products decreased 31%, which were mostly offset by a 49% increase in commodity grade products. Operating income increased by \$1.3 million primarily due to the impact from rising nickel prices, partially offset by higher operating costs resulting from the favorable shift in product mix. For this segment, raw material surcharges are primarily assessed at the time of shipment while the material cost of those shipments is determined at the time of order entry. Based upon the timing of surcharges, the Company estimates Dunkirk generated an operating income benefit of \$3.9 million and \$1.5 million for the years ended December 31, 2007 and 2006, respectively.

### Liquidity and Capital Resources

The Company generated cash from operations of \$17.7 million, \$33.6 million and \$6.3 million in the years ended December 31, 2008, 2007 and 2006, respectively. Cash received from sales of \$228.7 million, \$235.9 million and \$198.7 million for the years ended December 31, 2008, 2007 and 2006, respectively, represent the primary source of cash from operations. An analysis of the primary uses of cash is as follows:

For the years ended December 31, (dollars in thousands)	2008		2007		2006	
	Amount	%	Amount	%	Amount	%
Raw material purchases	\$111,212	52.7%	\$100,504	49.7%	\$ 92,117	47.9%
Employment costs	38,380	18.2	36,103	17.8	36,094	18.8
Utilities	19,915	9.4	18,657	9.2	18,528	9.6
Other	41,547	19.7	47,057	23.3	45,700	23.7
Total uses of cash	<u>\$211,054</u>	<u>100.0%</u>	<u>\$202,321</u>	<u>100.0%</u>	<u>\$192,439</u>	<u>100.0%</u>

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Cash used for raw material purchases increased in 2008 in comparison to 2007 and 2006 primarily due to increased production and higher transaction prices. The Company continuously monitors market price fluctuations of its key raw materials. The following table reflects the average market values per pound for key raw materials for selected months during the last three-year period.

	December 2008	June 2008	December 2007	June 2007	December 2006	June 2006
Nickel	\$ 4.39	\$10.23	\$ 11.79	\$18.92	\$ 15.68	\$ 9.41
Chrome	\$ 0.96	\$ 2.19	\$ 1.66	\$ 1.27	\$ 0.64	\$ 0.64
Molybdenum	\$ 9.85	\$33.22	\$ 32.54	\$32.65	\$ 24.87	\$25.28
Carbon Scrap	\$ 0.11	\$ 0.34	\$ 0.14	\$ 0.13	\$ 0.10	\$ 0.15

The monthly average price of nickel increased from \$9.41 in June 2006 to \$15.68 in December 2006 to a high of \$23.67 in May 2007. The significant rise was believed to be due to increased demand from foreign (primarily Chinese) and domestic sources coupled with supply volatility which caused raw material market values to rise significantly between June 2006 and May 2007. The sharp increase had a material negative impact on the operating margins of the Universal Stainless & Alloy Product Segment and a material positive impact on the operating margins of the Dunkirk Specialty Steel Segment. The monthly average nickel prices declined from its record level in May 2007 to \$12.54 in August 2007 and to \$11.79 in December 2007. The sharp decline resulted from decreased demand for nickel while supplies continued to increase during the second half of 2007. The sharp decline also had a material negative impact on the operating margins of both business segments through the recognition of increased inventory reserves. The reserve increased from 2.3% of the consolidated inventory balance at December 31, 2006 to 3.3% at December 31, 2007.

During the first nine months of 2008, the monthly average prices of nickel and molybdenum remained stable while chrome and carbon scrap experienced significant increases. From September 2008 to December 2008, the average cost of nickel and chrome declined 46%, while molybdenum declined 70% and carbon scrap declined 56%. The sharp decline also had a material negative impact on the operating margins of both business segments through the recognition of increased inventory reserves. The reserve increased from 3.3% of the consolidated inventory balance at December 31, 2007 to 5.1% at December 31, 2008. While the material surcharge mechanism is designed to offset modest fluctuations in raw material prices, it cannot immediately absorb significant spikes in raw material prices. There can be no assurance that the raw material surcharge mechanism will completely offset immediate changes in the Company's raw material costs. A material decline in raw material prices within a short period of time could have a material adverse effect on the financial results of the Company.

Increases in both employment and utility costs are primarily due to higher rates at comparable production volumes. The increased employment costs primarily relate to higher wages partially offset by decreased payouts under the Company's profit-sharing plans. Increased utility costs are related to a 27% increase in average natural gas rates, principally at the Bridgeville facility.

Other uses of cash decreased between 2008 and 2007 and increased between 2006 and 2007. 2007 included payments made to settle the Teledyne lawsuit and EPA violation as well as incurring increased maintenance expenses. In addition, payments for federal and state income taxes, net of refunds received, decreased from \$11.8 million in 2006 to \$11.3 million and \$6.4 million in 2007 and 2008, respectively.

At December 31, 2008, working capital approximated \$94.8 million, as compared to \$85.9 million at December 31, 2007. The increase is attributable to a \$4.2 million increase in cash, a \$2.3 million increase in prepaid and current deferred taxes and a \$2.6 million decrease in accrued employment and other accrued liabilities. The increased cash balance is primarily resulting from the net income generated during the year and a \$637,000 decrease in managed working capital, which is defined as accounts receivable and inventory less accounts payable and outstanding checks in excess of bank balances. The managed working capital days sales outstanding decreased from 121 days at December 31, 2007 to 117 days at December 31, 2008.

*Capital Expenditures and Investments.* The Company's capital expenditures were approximately \$12.9 million and \$8.8 million in 2008 and 2007, respectively. The 2008 expenditures were primarily made to complete the installation of the high-temperature annealing facility in Dunkirk, the addition of annealing and finishing equipment in Bridgeville and upgrades to the round bar finishing line relocated from Bridgeville to Dunkirk during the year.

On January 29, 2009, the Company announced that it will invest \$13 million in its Bridgeville melt shop. The investment will include major upgrades in equipment, automation and plant layout designed to: cut production cycle times and customer lead times; improve on-time delivery performance; increase material yields; reduce operating costs and enhance working capital management. The equipment and infrastructure spending will be completed by the end of 2009, and the automation investment will be completed by the middle of 2010. The project is expected to begin producing cost savings in the 2009 fourth quarter. Once fully implemented, the investment is expected to yield cost savings of more than \$7.5 million per year. The Company expects to fund substantially all of the investment with a bank term loan. Capital expenditures are expected to approximate \$16.0 million in 2009, of which \$11.0 million is specifically for the Bridgeville melt shop.



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*Capital Resources Including Off-Balance Sheet Arrangements.* The Company does not maintain off-balance sheet arrangements nor does it participate in non-exchange traded contracts requiring fair value accounting treatment or material related-party transaction arrangements.

*PNC Credit Agreement.* The Company is party to a credit agreement with PNC Bank (the "PNC Credit Agreement"), which establishes a \$15.0 million revolving credit facility ("PNC Line") with a term expiring on June 30, 2009. The PNC Line is collateralized by substantially all of the Company's assets. At December 31, 2008, the Company had its \$15.0 million revolving line of credit with PNC Bank available for borrowings.

The Company pays a commitment fee on the unused portion of the PNC Line of 0.25%, provided it maintains certain financial ratios. Interest on borrowings under the PNC Line is based on short-term market rates, which may be further adjusted, based upon the Company maintaining certain financial ratios. The Company is required to be in compliance with three financial covenants: a minimum leverage ratio of 3.0:1.0 or less; a minimum debt service ratio of 2.0:1.0 or greater; and a minimum tangible net worth of \$87.3 million as of December 31, 2008. The Company was in compliance with all financial ratios and restrictive covenants it is required to maintain under the credit agreement at December 31, 2008.

On February 27, 2009, the Company entered into a new unsecured credit agreement providing for a \$12.0 million term loan scheduled to mature on February 28, 2014 and a \$15.0 million revolving credit facility with a term expiring on June 30, 2012. The Company also executed an interest rate swap to convert the LIBOR floating rate term loan to a fixed interest rate for the life of the loan. The Company believes it will maintain compliance with the financial covenants in effect throughout 2009.

*Government Financing Programs.* The Company maintains two loan agreements with the Commonwealth of Pennsylvania's Department of Commerce, originally aggregating \$600,000. A \$200,000 15-year loan bears interest at 5% per annum with the term ending in 2011, and a \$400,000 20-year loan bears interest at 6% per annum with the term ending in 2016. In 2002, Dunkirk Specialty Steel issued two ten-year, 5% interest-bearing notes payable to the New York Job Development Authority for the combined amount of \$3.0 million. As of December 31, 2008, the total principal balance of all government-financed debt instruments is \$1.4 million.

*Stock-Based Financing Activity.* The Company issued 72,785 and 90,751 shares of its Common Stock for the years ended December 31, 2008 and 2007, respectively, through its two stock-based compensation plans. In 2008, certain employees, officers and members of the Company's Board of Directors exercised 64,850 stock options issued under the Stock Incentive Plan for \$625,000 plus related tax benefits of \$529,000. In 2007, certain employees, officers and members of the Company's Board of Directors exercised 84,750 stock options issued under the Stock Incentive Plan for \$897,000 plus related tax benefits of \$958,000. The remaining shares were issued to employees participating in the Employee Stock Purchase Plan.

In October 1998, the Company initiated a stock repurchase program to repurchase up to 315,000 shares of its outstanding Common Stock in open market transactions at market prices. The Company repurchased no shares in 2008 and 326 shares in 2007. The Company is authorized to repurchase 44,205 remaining shares of Common Stock under this program as of December 31, 2008.

*Short- and Long-Term Liquidity.* The Company expects to meet substantially all of its short-term liquidity requirements resulting from operations and current capital investment plans with internally generated funds and borrowings under the PNC Credit Agreement. At December 31, 2008, the Company had \$14.8 million in cash and \$15.0 million available under the PNC Line. In addition, the ratio of current assets to current liabilities at December 31, 2008 was 4.9:1 compared with 4.7:1 at December 31, 2007, and the debt to total capitalization ratio was 1.0% compared with 1.4%, respectively.

The Company's long-term liquidity depends upon its ability to obtain additional orders from its existing customers, attract new customers and control costs. Additional sources of financing may be required to fund growth initiatives identified by the Company.

*Contractual Obligations.* At December 31, 2008, the Company had the following contractual obligations:

<i>(dollars in thousands)</i>	Total	Payments Due by Period			
		Less than 1 Year	1-3 Years	3-5 Years	More than 5 Years
Long-term debt	\$ 1,604	\$ 468	\$923	\$138	\$ 75
Operating lease obligations	73	23	26	24	—
Purchase obligations	13,628	13,628	—	—	—
Total contractual obligations	\$15,305	\$14,119	\$949	\$162	\$ 75

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Long-term debt does not include any outstanding balance on the PNC Line, currently due to expire on June 30, 2009, since there was no outstanding balance on December 31, 2008. Purchase obligations include the value of all open purchase orders with established quantities and purchase prices as well as minimum purchase commitments.

*Import Protections.* The CDSOA provides for payment of import duties collected by the U.S. Treasury Department to domestic companies injured by unfair foreign trade practices. The assets purchased by Dunkirk Specialty Steel were previously owned and operated by AL Tech Specialty Steel, Inc. and Empire Specialty Steel, Inc. During their ownership, both organizations participated in several anti-dumping lawsuits with other domestic specialty steel producers. In accordance with the CDSOA, which expired September 30, 2007, the Company filed claims to receive their appropriate share of the import duties collected and received a net payment of \$599,000 in 2008. Future benefits are dependent on the amount of undistributed import duties collected as of September 30, 2007 and the relationship of Dunkirk Specialty Steel's claim in relation to claims filed by other domestic specialty steel producers.

### EFFECTS OF INFLATION

Despite modest inflation in recent years, rising costs, in particular the cost of certain raw materials and energy, continue to affect operations. The Company strives to mitigate the effects of inflation through cost containment, productivity improvements, sales price increases and surcharges.

### CONTINGENT ITEMS

*Product Claims.* The Company is subject to various claims and legal actions that arise in the normal course of conducting business. At December 31, 2007, the Company had established a reserve of \$200,000 for commercial product-claims related to three sales by Dunkirk Specialty Steel. During 2008, the claims were resolved in the Company's favor.

*Environmental Matters.* The Company, as well as other steel companies, is subject to demanding environmental standards imposed by federal, state and local environmental laws and regulations. The Company is not aware of any environmental condition that currently exists at any of its facilities that are probable or reasonably possible of having a material impact on the Company's results of operations or liquidity.

*Legal Matters.* From time to time, various lawsuits and claims have been or may be asserted against the Company relating to the conduct of our business, including routine litigation relating to commercial and employment matters. The ultimate cost and outcome of any litigation or claim cannot be predicted with certainty. Management believes, based on information presently available, that the likelihood that the ultimate outcome of any such pending matter will have a material adverse effect on its financial condition, or liquidity or a material impact to our results of operations is remote, although the resolution of one or more of these matters may have a material adverse effect on its results of operations for the period in which the resolution occurs.

### CRITICAL ACCOUNTING POLICIES AND NEW ACCOUNTING PRONOUNCEMENTS

*Critical Accounting Policies.* Revenue recognition is the most critical accounting policy of the Company. Revenue from the sale of products is recognized when both risk of loss and title have transferred to the customer, which in most cases coincides with shipment of the related products, and collection is reasonably assured. The Company manufactures specialty steel product to customer purchase order specifications and in recognition of requirements for product acceptance. Material certification forms are executed, indicating compliance with the customer purchase orders, before the specialty steel products are packed and shipped to the customer. Occasionally customers request that the packed products be held at the Company's facility beyond the stated shipment date. In these situations, the Company receives written confirmation of the request, and acknowledgement that title has passed to the customer and that normal payment terms apply. Such amounts included in revenue for the years ended December 31, 2008, 2007 and 2006 were less than 1% of net sales.

Revenue from conversion services is recognized when the performance of the service is complete. Invoiced shipping and handling costs are also accounted for as revenue. Customer claims, which are not material, are accounted for primarily as a reduction to gross sales after the matter has been researched and an acceptable resolution has been reached.

In addition, management constantly monitors the ability to collect its unpaid sales invoices and the valuation of its inventory. The allowance for doubtful accounts includes specific reserves for the value of outstanding invoices issued to customers currently operating under the protection of the federal bankruptcy law and other amounts that are deemed potentially not collectible with a reserve equal to 15% of 90-day or older balances. However, the total allowance will not be less than 1% of total accounts receivable.

The cost of inventory is principally determined by the first in, first-out (FIFO) method for material costs as well as the average cost method for operation costs. An inventory reserve is provided for material on hand for which management believes cost exceeds net realizable value and for material on hand for more than one year not assigned to a specific customer order.

Long-lived assets, including property, plant and equipment, are evaluated for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable in relation to the operating performance and future undiscounted cash flows of the underlying assets. Adjustments are made if the sum of expected future cash flows is less than book value. At December 31, 2008, the Company's stock price was below book value per share. In management's judgment, a significant portion of the recent decline in the Company's stock price is related to the current unprecedented liquidity crisis in the overall

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economy and is not reflective of the underlying cash flows of the Company. Based on management's assessment of the carrying values of long-lived assets, no impairment reserve had been deemed necessary as of December 31, 2008 and 2007. Retirements and disposals are removed from cost and accumulated depreciation accounts, with the gain or loss reflected in operating income.

In addition, management assesses the need to record a valuation allowance to reduce deferred tax assets to the amount that is more likely than not to be realized. The Company believes it will generate sufficient income in addition to taxable income generated from the reversal of its temporary differences to utilize the deferred tax assets recorded at December 31, 2008.

*New Accounting Pronouncements.* See information under the heading "Note 1: Significant Accounting Policies" within "Notes to Consolidated Financial Statements" in Item 8, Financial Statements and Supplementary Data, in this Annual Report on Form 10-K for details of recently issued accounting pronouncements and their expected impact on the Company's financial statements.

### FUTURE OUTLOOK

The Company entered 2009 with a total backlog of approximately \$75 million, which is less than the \$85 million backlog at the beginning of 2008. The current backlog mainly consists of semi-finished products for rerollers and forgers and tool steel plate for service centers. The decline is primarily due to weak end-market demand resulting from the current global economic crisis and the impact of lower raw materials costs and surcharges on the selling prices for semi-finished product orders. End-market demand, especially for aerospace products and tool steel products supplied to the automotive industry is expected to remain weak while service centers continue to destock excess material during the first half of 2009. The Company expects orders for its products will improve in the second-half of the year as customer inventory is consumed and demand begins to increase. Our ability to make scheduled payments of principal, or to pay the interest on or to refinance our indebtedness, or to fund planned capital expenditures will depend on our future performance, which, to a certain extent, is subject to general economic, financial, competitive, legislative, regulatory and other factors that are beyond our control. Based upon the current level of operations and our current expectations for future periods in light of the current economic environment, we believe that cash flow from operations and available cash, together with available borrowings under the line of credit agreement, will be adequate to meet the future liquidity needs during the one year following December 31, 2008.

### FORWARD-LOOKING INFORMATION SAFE HARBOR

The Management's Discussion and Analysis and other sections of this Annual Report on Form 10-K contain forward-looking statements that reflect the Company's current views with respect to future events and financial performance. Statements looking forward in time, including statements regarding future growth, cost savings, expanded production capacity, broader product lines, greater capacity to meet customer quality reliability, price and delivery needs, enhanced competitive posture, effect of new accounting pronouncements and no material financial impact from litigation or contingencies are included in this Annual Report on Form 10-K pursuant to the "safe harbor" provision of the Private Securities Litigation Reform Act of 1995.

The Company's actual results will be affected by a wide range of factors, including those items described in Item 1A, Risk Factors. Many of these factors are not within the Company's control and involve known and unknown risks and uncertainties that may cause the Company's actual results in future periods to be materially different from any future performance suggested herein. Any unfavorable change in the foregoing or other factors could have a material adverse effect on the Company's business, financial condition and results of operations. Further, the Company operates in an industry sector where securities values may be volatile and may be influenced by economic and other factors beyond the Company's control.

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

The Company does not use derivative financial instruments to reduce its financial risk. The Company's customers and suppliers absorb fluctuations in foreign currency exchange rates. In addition, the Company maintains some long-term, fixed cost supply agreements for its major purchase requirements. Prices for the Company's raw materials and natural gas requirements are subject to frequent market fluctuations, and profit margins may decline in the event market values increase. Selling price increases and surcharges are implemented to offset raw material and natural gas market price increases.

The cost of raw materials represents more than 60% of the Company's total cost of products sold in 2008 and 2007 due to significant increases in prices for raw materials purchased. Raw material prices vary based on numerous factors, including quality, and are subject to frequent market fluctuations. Future raw material prices can not be predicted with any degree of certainty. Therefore, the Company does not maintain any long-term written agreements with any of its raw material suppliers.

The Company has implemented a sales price surcharge mechanism on its products to help offset the impact of raw material price fluctuations. For substantially all stainless semi-finished products, the surcharge is calculated at the time of order entry, based on current raw material prices. For substantially all finished products and tool steel plate, the surcharge is calculated based on the monthly average raw material prices two months prior to the promised ship date. While the material surcharge mechanism is designed to offset modest fluctuations in raw material prices, it can not immediately absorb significant spikes in raw material prices. A material change in raw material prices within a short period of time could have a material effect on the financial results of the Company and there can be no assurance that the raw material surcharge mechanism will completely offset immediate changes in the Company's raw material costs.

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The Company currently is not exposed to market risk from changes in interest rates related to its long-term debt. At December 31, 2008, all of the Company's \$1.4 million of total long-term debt has fixed interest rates.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

**MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING**

Management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rules 13a-15(f) under the Securities Exchange Act of 1934). Our internal control over financial reporting is designed to provide reasonable assurance to management and the board of directors regarding the preparation and fair presentation of published financial statements. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation. Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2008. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control — Integrated Framework*. Based on our assessment, we believe that, as of December 31, 2008, our internal control over financial reporting is effective based on those criteria.

The effectiveness of internal control over financial reporting as of December 31, 2008 has been audited by Schneider Downs & Co. Inc., an independent registered public accounting firm which also audited our consolidated financial statements. Schneider Downs' attestation report on the consolidated financial statements and management's maintenance of effective internal control over financial reporting is included under the heading "Report of Independent Registered Public Accounting Firm."

/s/ Dennis M. Oates

Dennis M. Oates  
President and Chief Executive Officer

/s/ Richard M. Ubinger

Richard M. Ubinger  
Vice President of Finance, Chief Financial Officer and Treasurer

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Stockholders of Universal Stainless & Alloy Products, Inc.

We have audited the accompanying consolidated balance sheets of Universal Stainless & Alloy Products, Inc. and subsidiaries (the Company) as of December 31, 2008 and 2007, and the related consolidated statements of operations and cash flows for each of the years in the three-year period ended December 31, 2008. In addition, our audit included the financial statement schedule listed in the index at Item 15 (2) (Schedule II). We also have audited the Company's internal control over financial reporting as of December 31, 2008, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on these consolidated financial statements and an opinion on the Company's internal control over financial reporting based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

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

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2008 and 2007, and the results of its operations and its cash flows for each of the years in the three-year period ended December 31, 2008, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the related financial statement schedule, when considered in relation to the consolidated financial statements, as a whole, presents fairly, in all material respects, the information set forth therein. Also, in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

/s/ Schneider Downs & Co., Inc.

Schneider Downs & Co., Inc.  
Pittsburgh, Pennsylvania  
March 6, 2009

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[Table of Contents](#)**CONSOLIDATED STATEMENTS OF OPERATIONS**

<u>For the years ended December 31,</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>
<i>(dollars in thousands, except per share information)</i>			
Net sales	\$ 235,106	\$ 229,936	\$ 203,873
Cost of products sold	204,929	184,491	160,722
Selling and administrative expenses	11,085	12,038	10,792
Operating income	19,092	33,407	32,359
Interest expense and other financing costs	(105)	(731)	(1,106)
Other income, net	911	776	522
Income before income tax expense	19,898	33,452	31,775
Provision for income taxes	5,948	10,948	11,185
Net income	\$ 13,950	\$ 22,504	\$ 20,590
<b>EARNINGS PER COMMON SHARE</b>			
Basic	\$ 2.08	\$ 3.39	\$ 3.19
Diluted	\$ 2.05	\$ 3.32	\$ 3.11
<b>WEIGHTED-AVERAGE COMMON SHARES USED TO COMPUTE EARNINGS PER SHARE</b>			
Basic	6,706,535	6,644,374	6,451,037
Diluted	6,801,203	6,774,924	6,612,530

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

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[Table of Contents](#)**CONSOLIDATED BALANCE SHEETS**

<u>December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>	<u>2007</u>
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 14,812	\$ 10,648
Accounts receivable (less allowance for doubtful accounts of \$330 and \$311)	33,057	27,501
Inventory	63,222	65,572
Other current assets	8,239	5,537
Total current assets	119,330	109,258
Property, plant and equipment, net	62,626	54,271
Other assets	988	767
Total assets	<u>\$182,944</u>	<u>\$164,296</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Trade accounts payable	\$ 19,350	\$ 13,983
Outstanding checks in excess of bank balance	540	2,064
Accrued employment costs	3,795	5,307
Current portion of long-term debt	403	383
Other current liabilities	421	1,600
Total current liabilities	24,509	23,337
Long-term debt	1,046	1,453
Deferred taxes	11,689	9,904
Total liabilities	37,244	34,694
<b>COMMITMENTS AND CONTINGENCIES</b>		
<b>STOCKHOLDERS' EQUITY</b>		
Senior Preferred Stock, par value \$0.001 per share; 1,980,000 shares authorized; 0 shares outstanding	—	—
Common Stock, par value \$0.001 per share; 10,000,000 shares authorized; 7,003,079 and 6,930,294 shares issued	7	7
Additional paid-in capital	37,260	35,112
Retained earnings	110,092	96,142
Treasury Stock at cost; 270,795 common shares held	(1,659)	(1,659)
Total stockholders' equity	145,700	129,602
Total liabilities and stockholders' equity	<u>\$182,944</u>	<u>\$164,296</u>

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

[Table of Contents](#)**CONSOLIDATED STATEMENTS OF CASH FLOWS**

<u>For the years ended December 31,</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>
<i>(dollars in thousands, except per share information)</i>			
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Net income	<b>\$ 13,950</b>	\$ 22,504	\$ 20,590
Adjustments to reconcile to net cash and cash equivalents provided by operating activities:			
Depreciation and amortization	<b>4,167</b>	3,731	3,337
Loss on retirement of fixed assets	<b>402</b>	40	911
Deferred taxes increase (decrease)	<b>558</b>	253	(1,852)
Stock-based compensation expense	<b>838</b>	427	273
Tax benefit from share-based payment arrangements	<b>(529)</b>	(958)	(1,073)
Changes in assets and liabilities:			
Accounts receivable	<b>(5,556)</b>	5,807	(5,345)
Inventory	<b>2,350</b>	447	(14,621)
Accounts payable	<b>5,367</b>	860	544
Accrued employment costs	<b>(1,512)</b>	1,186	1,163
Other, net	<b>(2,365)</b>	(674)	2,374
Net cash provided by operating activities	<b>17,670</b>	33,623	6,301
<b>CASH FLOWS USED IN INVESTING ACTIVITIES</b>			
Capital expenditures	<b>(12,905)</b>	(8,782)	(7,716)
Net cash used in investing activities	<b>(12,905)</b>	(8,782)	(7,716)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
Long-term debt repayment	<b>(387)</b>	(9,364)	(1,555)
(Repayment) borrowings under revolving line of credit, net	<b>—</b>	(8,392)	2,275
(Decrease) increase in outstanding checks in excess of bank balance	<b>(1,524)</b>	(1,363)	326
Proceeds from issuance of Common Stock	<b>781</b>	1,059	1,585
Tax benefit from share-based payment arrangements	<b>529</b>	958	1,073
Net cash (used in) provided by financing activities	<b>(601)</b>	(17,102)	3,704
Net increase in cash and cash equivalents	<b>4,164</b>	7,739	2,289
Cash and cash equivalents at beginning of period	<b>10,648</b>	2,909	620
Cash and cash equivalents at end of period	<b>\$ 14,812</b>	\$ 10,648	\$ 2,909
<b>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION</b>			
Interest paid	<b>\$ 91</b>	\$ 793	\$ 1,085
Income taxes paid, net	<b>\$ 6,351</b>	\$ 11,268	\$ 11,779

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



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[Table of Contents](#)**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****Note 1: Significant Accounting Policies**

*Description of the Company.* Universal Stainless & Alloy Products, Inc. (the “Company”) manufactures and markets semi-finished and finished specialty steel products, including stainless steel, tool steel and certain other alloyed steels. The Company’s manufacturing process involves melting, remelting, treating, and hot and cold rolling of semi-finished and finished specialty steels. The Company’s products are sold to rerollers, forgers, service centers, original equipment manufacturers (“OEMs”), which primarily include the power generation and aerospace industries, and wire redrawers. The Company also performs conversion services on materials supplied by customers that lack certain of the Company’s production facilities or that are subject to their own capacity constraints.

*Use of Estimates.* The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements. The estimates and assumptions used in these consolidated financial statements are based on known information available as of the balance sheet date. Actual results could differ from those estimates.

*Basis of Consolidation.* The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. The Company has no interests in any unconsolidated entity nor does it have any off-balance sheet financing arrangements other than operating leases.

*Fair Value of Financial Instruments.* Cash equivalents are stated at cost plus accrued interest, which approximates market value, and include cash and securities having a maturity of three months or less at the time of purchase. The fair value of trade receivables and trade payables approximate the carrying amount because of the short maturity of these instruments. The fair value of long-term debt instruments approximates the carrying amount based on current borrowing rates available for financings with similar terms and maturities.

*Concentration of Credit Risk.* Financial instruments that potentially subject the Company to concentrations of credit risk are cash and cash equivalents and accounts receivable. The Company limits its credit risk associated with cash and cash equivalents by placing its investments in high-grade short-term instruments. With respect to accounts receivable, the Company limits its credit risk by performing ongoing credit evaluations and, when deemed necessary, requiring letters of credit, guarantees or cash collateral. The allowance for doubtful accounts includes specific reserves for the value of outstanding invoices issued to customers currently operating under the protection of the federal bankruptcy law and other amounts that are deemed potentially not collectible with a reserve equal to 15% of 90-day or older balances. However, the total allowance will not be less than 1% of total accounts receivable. Receivables are charged-off to the allowance when they are deemed to be uncollectible. Bad debt expense for fiscal years 2008, 2007 and 2006 was \$13,000, \$2,000 and \$78,000, respectively.

*Inventories.* Inventories are stated at the lower of cost or market with cost principally determined by the first-in, first-out (FIFO) method. The average cost method is also utilized. Such costs include the acquisition cost for raw materials and supplies, direct labor and applied manufacturing overhead within the guidelines of normal plant capacity. Provisions are made for slow-moving inventory based upon management’s expected method of disposition. Net provision expense for inventory reserves for fiscal years 2008, 2007 and 2006 was \$1.0 million, \$619,000 and \$939,000, respectively.

The Company purchases scrap metal and alloy additives, principally nickel, chrome and molybdenum, for its melting operation. A substantial portion of the alloy additives is available only from foreign sources, some of which are located in countries that may be subject to unstable political and economic conditions. Those conditions might disrupt supplies or affect the prices of the raw materials used by the Company. The Company maintains sales price surcharges to help offset the impact of raw material price fluctuations.

Included in inventory are operating materials consisting of production molds and rolls that will normally be consumed within one year.

*Property, Plant and Equipment.* Property, plant and equipment is recorded at cost. Costs incurred in connection with the construction or major rebuild of facilities, including interest directly related to the project, are capitalized as construction in progress. No depreciation is recognized on these assets until placed in service. Retirements and disposals are removed from cost and accumulated depreciation accounts, with the gain or loss reflected in operating income. Maintenance and repairs are charged to expense as incurred, and costs of improvements and renewals are capitalized.

In September 2006, the Financial Accounting Standards Board (“FASB”) issued FASB Staff Position entitled “Accounting for Planned Major Maintenance Activities” (“FSP”). The FSP amends an American Institute of Certified Public Accountants Industry Audit Guide and is applicable to all industries that accrue for planned major maintenance activities. The FSP prohibits the use of the accrue-in-advance method of accounting for planned major maintenance costs, which was the policy the Company used to record planned plant outage costs on an interim basis within a fiscal year. The FSP became effective January 1, 2007, with retrospective application to all prior periods presented. Under the FSP, the Company will report results using the deferral method whereby material major equipment maintenance costs are capitalized as incurred and amortized into expense over the subsequent six-month period, while other maintenance costs are expensed as incurred. The restatement of maintenance expenses for the year ended December 31, 2006 changed previously reported financial data by the following amounts:

<u>Increase (Decrease) in Previously Reported Amount</u>	<u>2006</u>
<i>(dollars in thousands, except per share amounts)</i>	
Change in cost of products sold	\$ 40
Change in net income	(24)
Change in earnings per common share:	
Basic	\$(0.01)
Diluted	\$(0.01)

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Maintenance expense for the fiscal year 2008, 2007 and 2006 was \$14,556,000, \$13,857,000 and \$12,060,000, respectively.

Depreciation and amortization are computed using the straight-line method based on the estimated useful lives of the related assets. The estimated useful lives of buildings and land improvements are between 10 and 39 years, and the estimated useful lives of machinery and equipment are between 10 and 20 years. Direct costs incurred in the development and implementation of internal-use software are capitalized and recorded within property, plant and equipment, and amortized on a straight-line basis over its anticipated useful life, which generally does not exceed three years. Depreciation and amortization expense for fiscal year 2008, 2007 and 2006 was \$4,148,000, \$3,722,000 and \$3,315,000, respectively.

*Long-Lived Asset Impairment.* Long-lived assets, including property, plant and equipment, are evaluated for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable in relation to the operating performance and future undiscounted cash flows of the underlying assets. Adjustments are made if the sum of expected future cash flows is less than book value. At December 31, 2008, the Company's stock price was below book value per share. In management's judgment, a significant portion of the recent decline in the Company's stock price is related to the current unprecedented liquidity crisis in the overall economy and is not reflective of the underlying cash flows of the Company. Based on management's assessment of the carrying values of long-lived assets, no impairment reserve had been deemed necessary as of December 31, 2008 and 2007.

*Revenue Recognition.* Revenue from the sale of products is recognized when both risk of loss and title have transferred to the customer, which in most cases coincides with shipment of the related products, and collection is reasonably assured. Revenue from conversion services is recognized when the performance of the service is complete. Invoiced shipping and handling costs are also accounted for as revenue. The Company manufactures specialty steel product to customer purchase order specifications and in recognition of requirements for product acceptance. Material certification forms are executed, indicating compliance with the customer purchase orders, before the specialty steel products are packed and shipped to the customer. Occasionally customers request that the packed products be held at the Company's facility beyond the stated shipment date. In these situations, the Company receives written confirmation of the request, and acknowledgement that title has passed to the customer and that normal payment terms apply. Such amounts included in revenue for the years ended December 31, 2008, 2007 and 2006 were less than 1% of net sales. Customer claims, which are not material, are accounted for primarily as a reduction to gross sales after the matter has been researched and an acceptable resolution has been reached.

*Income Taxes.* Deferred income taxes are provided for unused tax credits earned and the tax effect of temporary differences between the tax basis of assets and liabilities and their reported amounts in the financial statements. The Company uses the liability method to account for income taxes, which requires deferred taxes to be recorded at the statutory rate expected to be in effect when the taxes are paid. Valuation allowances are provided for a deferred tax asset when it is more likely than not that such asset will not be realized.

In addition, the Company evaluates the tax positions taken or expected to be taken in its tax returns. A tax position should only be recognized in the financial statements if the Company determines that it is more-likely-than-not that the tax position will be sustained upon examination by the tax authorities, based upon the technical merits of the position. For those tax positions that should be recognized, the measurement of a tax position is determined as being the largest amount of benefit that is greater than fifty percent likely of being realized upon ultimate settlement. The Company believes there are no known uncertain tax positions at December 31, 2008.

*Stock-Based Compensation Plans.* On January 1, 2006, the Company adopted Statement of Financial Accounting Standards No. 123 (revised 2004), "Share-Based Payment" ("SFAS 123R") using a modified version of prospective application ("modified prospective application"). SFAS 123R applies to new awards and to awards modified, repurchased or cancelled after January 1, 2006. The Company recognizes compensation expense for the portion of outstanding awards for which the requisite service period has not yet been rendered based on the grant-date fair value of the awards. The fair value of the option grants is estimated on the date of grant using the Black-Scholes option-pricing model, and is recognized ratably over the service/vesting period of the award. The tax effects of exercising stock options are added to additional paid-in capital at the exercise date.

*Earnings Per Common Share.* Basic earnings per common share is computed by dividing net income by the weighted-average number of common shares outstanding during the period. Diluted earnings per common share is computed by dividing net income by the weighted-average number of common shares outstanding plus all dilutive potential common shares outstanding during the period. Dilutive common shares are determined using the treasury stock method. Under the treasury stock method, exercise of options is assumed at the beginning of the period when the average stock price during the period exceeds the exercise price of outstanding

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options, and common shares are assumed issued. The assumed proceeds from the exercise of stock options are used to purchase common stock at the average market price during the period. The incremental shares to be issued are considered to be the dilutive potential common shares outstanding.

*New Accounting Pronouncements.* The Company adopted FASB Statement of Financial Accounting Standards No. 157, “Fair Value Measurements” (“SFAS 157”) and FASB Statement of Financial Accounting Standards No. 159, “The Fair Value Option for Financial Assets and Financial Liabilities Including an Amendment of FASB Statement No. 115” (“SFAS 159”), which permits entities to choose to measure many financial instruments and certain other items at fair value. Neither of these statements had an impact on results for 2008. In February 2008, the FASB issued FASB Staff Position FAS 157-2, *Effective Date of FASB Statement No. 157* which delayed the effective date of SFAS No. 157 for all non-financial assets and liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis, until January 1, 2009. We have not yet conclusively determined the impact that the implementation of SFAS No. 157 will have on our non-financial assets and liabilities; however we do not anticipate it to significantly impact our consolidated financial statements.

On December 4, 2007, the FASB issued FASB Statement No. 141 (Revised 2007), “Business Combinations” (“SFAS 141R”). SFAS 141R will significantly change the accounting for business combinations. Under SFAS 141R, an acquiring entity will be required to recognize all the assets acquired and liabilities assumed in a transaction at the acquisition-date fair value with limited exceptions. SFAS 141R will change the accounting treatment for certain specific items, including: acquisition costs will be generally expensed as incurred; noncontrolling interests will be valued at fair value at the acquisition date; acquired contingent liabilities will be recorded at fair value at the acquisition date and subsequently measured at either the higher of such amount or the amount determined under existing guidance for non-acquired contingencies; restructuring costs associated with a business combination will be generally expensed subsequent to the acquisition date; and changes in deferred tax asset valuation allowances and income tax uncertainties after the acquisition date generally will affect income tax expense. SFAS 141R applies prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after January 1, 2009.

On December 4, 2007, the FASB issued FASB Statement No. 160, “Noncontrolling Interests in Consolidated Financial Statements—An Amendment of ARB No. 51” (“SFAS 160”). SFAS 160 establishes new accounting and reporting standards for the noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. Specifically, this statement requires the recognition of a noncontrolling interest (minority interest) as equity in the consolidated financial statements and separate from the parent’s equity. The amount of net income attributable to the noncontrolling interest will be included in consolidated net income on the face of the income statement. SFAS 160 clarifies that changes in a parent’s ownership interest in a subsidiary that do not result in deconsolidation are equity transactions if the parent retains its controlling financial interest. In addition, this statement requires that a parent recognize a gain or loss in net income when a subsidiary is deconsolidated. Such gain or loss will be measured using the fair value of the noncontrolling equity investment on the deconsolidation date. SFAS 160 also includes expanded disclosure requirements regarding the interests of the parent and its noncontrolling interest. SFAS 160 is effective on January 1, 2009 and is not expected to have a significant impact on the Company’s financial statements.

In March, 2008, the FASB issued FASB Statement No. 161, “Disclosures About Derivative Instruments and Hedging Activities, an Amendment of FASB Statement No. 133.” (SFAS 161”). SFAS 161 amends SFAS 133, “Accounting for Derivative Instruments and Hedging Activities,” to amend and expand the disclosure requirements of SFAS 133 to provide greater transparency about (i) how and why an entity uses derivative instruments, (ii) how derivative instruments and related hedge items are accounted for under SFAS 133 and its related interpretations, and (iii) how derivative instruments and related hedged items affect an entity’s financial position, results of operations and cash flows. To meet those objectives, SFAS 161 requires qualitative disclosures about objectives and strategies for using derivatives, quantitative disclosures about fair value amounts of gains and losses on derivative instruments and disclosures about credit-risk-related contingent features in derivative agreements. SFAS 161 is effective on January 1, 2009 and is not expected to have a significant impact on the Company’s financial statements.

*Reclassifications.* Certain prior year amounts have been reclassified to conform to the 2008 presentation.

### Note 2: Inventory

The major classes of inventory are as follows:

<u>December 31,</u>	<u>2008</u>	<u>2007</u>
<i>(dollars in thousands)</i>		
Raw materials and supplies	\$ 9,235	\$ 8,309
Semi-finished and finished steel products	55,088	57,599
Inventory reserves	(3,196)	(2,195)
Operating materials	2,095	1,859
Total inventory	<u>\$63,222</u>	<u>\$65,572</u>

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**Note 3: Property, Plant and Equipment**

Property, plant and equipment consists of the following:

<u>December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>	<u>2007</u>
Land and land improvements	\$ 2,496	\$ 2,208
Buildings	12,994	10,371
Machinery and equipment	76,544	66,432
Construction in progress	<u>3,523</u>	<u>4,571</u>
	95,557	83,582
Accumulated depreciation	<u>(32,931)</u>	<u>(29,311)</u>
Property, plant and equipment, net	<u>\$ 62,626</u>	<u>\$ 54,271</u>

**Note 4: Long-Term Debt and Other Financing**

Long-term debt consists of the following:

<u>December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>	<u>2007</u>
Government debt	\$1,449	\$1,836
Less amounts due within one year	<u>(403)</u>	<u>(383)</u>
Total long-term debt	<u>\$1,046</u>	<u>\$1,453</u>

The Company maintains a credit agreement with PNC Bank for a \$15.0 million revolving credit facility ("PNC Line"), all of which is available for borrowing at December 31, 2008, with a term expiring on June 30, 2009. This credit agreement also included a term loan ("PNC Term Loan") scheduled to mature on June 30, 2011. The Company retired the PNC Term Loan in December 2007. The credit agreement is collateralized by substantially all of the Company's assets.

Interest on borrowings under the PNC Line is based on short-term market rates, which may be further adjusted, based upon the Company maintaining certain financial ratios. PNC Bank reduced the commitment fee paid on the unused portion of the PNC Line from 0.5% to 0.25%, provided certain financial ratios are maintained. The Company is required to be in compliance with three financial covenants: a minimum leverage ratio, a minimum debt service ratio and a minimum tangible net worth. The Company was in compliance with all financial ratios and restrictive covenants it is required to maintain under the credit agreement at December 31, 2008.

On February 27, 2009, the Company entered into a new unsecured credit agreement providing for a \$12.0 million term loan scheduled to mature on February 28, 2014 and a \$15.0 million revolving credit facility with a term expiring on June 30, 2012. The Company also executed an interest rate swap to convert the LIBOR floating rate term loan to a fixed interest rate for the life of the loan.

The Company maintains two separate loan agreements with the Commonwealth of Pennsylvania's Department of Commerce, aggregating \$600,000. A \$200,000 15-year loan bears interest at 5% per annum with the term ending in 2011 and a \$400,000 20-year loan bears interest at 6% per annum with the term ending in 2016. On February 14, 2002, Dunkirk Specialty Steel issued two ten-year, 5% interest-bearing notes payable to the New York Job Development Authority for the combined amount of \$3.0 million.

The Company leases certain office equipment and a vehicle. The aggregate annual principal payments due under the Company's long-term debt and minimum lease payments under operating leases are as follows:

<u>For the years ended December 31,</u> <i>(dollars in thousands)</i>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>Thereafter</u>	<u>Total</u>
Long-term debt principal payments	\$403	\$423	\$432	\$92	\$29	\$ 70	\$1,449
Operating lease minimum payments	<u>23</u>	<u>13</u>	<u>13</u>	<u>13</u>	<u>11</u>	<u>—</u>	<u>73</u>

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**Note 5: Income Taxes**

Components of the provision for income taxes are as follows:

<u>For the years ended December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>	<u>2007</u>	<u>2006</u>
<b>CURRENT PROVISION (BENEFIT)</b>			
Federal	<b>\$5,553</b>	\$10,542	\$11,957
State	<b>(163)</b>	153	1,080
	<u><b>5,390</b></u>	<u>10,695</u>	<u>13,037</u>
<b>DEFERRED PROVISION (BENEFIT)</b>			
Federal	<b>936</b>	550	(1,623)
State	<b>(378)</b>	(297)	(229)
	<u><b>558</b></u>	<u>253</u>	<u>(1,852)</u>
<b>Provision for income taxes</b>	<u><b>\$5,948</b></u>	<u>\$10,948</u>	<u>\$11,185</u>

A reconciliation of the federal statutory tax rate and the Company's effective tax rate is as follows:

<u>For the years ended December 31,</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>
Federal statutory tax	<b>35.0%</b>	35.0%	35.0%
Domestic manufacturing deduction	<b>(1.7)</b>	(2.1)	(1.2)
State income taxes, net of federal tax impact	<b>0.0</b>	(0.2)	2.3
Government grants, net of federal tax impact	<b>(2.4)</b>	(0.4)	(0.8)
Other, net	<b>(1.0)</b>	0.4	(0.1)
<b>Effective income tax rate</b>	<u><b>29.9%</b></u>	<u>32.7%</u>	<u>35.2%</u>

Dunkirk Specialty Steel operates in a New York State Empire Zone and is qualified to benefit from investments made and employees hired at the Dunkirk, New York facility for up to 15 years from its 2002 acquisition date. The Company recognized tax credit benefits of \$764,000 and \$591,000 for fiscal year 2008 and 2007, respectively, of which \$394,000 and \$252,000 was applied against the respective year's current tax provision. The balance of the credits, which have no expiration date, will be applied against future tax liabilities for income apportioned to New York State. The Company believes it will generate sufficient income in addition to taxable income generated from the reversal of its temporary differences to utilize this tax credit.

The Company also recognized Pennsylvania Educational Improvement Tax Credit benefits ("PAEIT") of \$180,000 for both 2008 and 2007, which were applied against each respective year's current tax provision.

Deferred taxes result from the following:

<u>December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>	<u>2007</u>
<b>DEFERRED TAX ASSETS</b>		
Receivables	<b>\$ 125</b>	\$ 166
Inventory	<b>2,224</b>	1,573
Accrued liabilities	<b>714</b>	665
SFAS 123R compensation expense	<b>485</b>	209
Other	<b>69</b>	70
	<u><b>3,617</b></u>	<u>2,683</u>
State tax carryforwards	<b>932</b>	692
	<u><b>\$ 4,549</b></u>	<u>\$ 3,375</u>
<b>DEFERRED TAX LIABILITIES</b>		
Property, plant and equipment	<b>\$11,689</b>	\$ 9,904
Other	<b>58</b>	110
	<u><b>\$11,747</b></u>	<u>\$10,014</u>

State tax carryforwards represent New York Empire Zone tax credits with no expiration date and are included in other assets.

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The Company is routinely under audit by federal or state authorities in the areas of income taxes and the remittance of sales and use taxes. These audits include questioning the timing and amount of deductions, the nexus of income among various tax jurisdictions and compliance with federal and state tax laws. The Company has settled all IRS examinations through December 31, 2004.

**Note 6: Stockholders' Equity**

The Company has never paid a cash dividend on its Common Stock. The Company's Credit Agreement with PNC Bank limits the payment of cash dividends payable on its Common Stock to 50% of the Company's excess cash flow per fiscal year. Excess cash flow represents the amount of earnings before interest, taxes, depreciation and amortization that is greater than the sum of the Company's payments for interest, income taxes, the principal portion of long-term debt and capital lease obligations, and capital expenditures.

	Common Shares Outstanding	Common Stock	Additional Paid-In Capital	Retained Earnings	Treasury Shares	Treasury Stock
<i>(dollars in thousands)</i>						
Balance at December 31, 2005	6,686,783	\$ 7	\$ 29,712	\$ 53,048	270,057	\$(1,634)
Common Stock issuance under Employee Stock Purchase Plan	8,635		152			
Exercise of Stock Options	144,125		1,444			
Share-based compensation			273			
Tax benefit on share-based compensation			1,073			
Net income				20,590		
Purchase of Treasury Stock					412	(11)
Balance at December 31, 2006	6,839,543	\$ 7	\$ 32,654	\$ 73,638	270,469	\$(1,645)
Common Stock issuance under Employee Stock Purchase Plan	6,001		176			
Exercise of Stock Options	84,750		897			
Share-based compensation			427			
Tax benefit on share-based compensation			958			
Net income				22,504		
Purchase of Treasury Stock					326	(14)
Balance at December 31, 2007	6,930,294	\$ 7	\$ 35,112	\$ 96,142	270,795	\$(1,659)
Common Stock issuance under Employee Stock Purchase Plan	7,935		155			
Exercise of Stock Options	64,850		626			
Share-based compensation			838			
Tax benefit on share-based compensation			529			
Net income				13,950		
<b>Balance at December 31, 2008</b>	<b>7,003,079</b>	<b>\$ 7</b>	<b>\$ 37,260</b>	<b>\$ 110,092</b>	<b>270,795</b>	<b>\$(1,659)</b>

In October 1998, the Company initiated a stock repurchase program to repurchase up to 315,000 shares of its outstanding Common Stock in open market transactions at market prices. The Company is authorized to repurchase 44,205 remaining shares of Common Stock under this program as of December 31, 2008.

The Company has 1,980,000 authorized shares of Senior Preferred Stock. At December 31, 2008 and 2007, there were no shares issued or outstanding.

**Note 7: Basic and Diluted Earnings Per Share**

The computation of basic and diluted earnings per share for the years ended December 31, 2008, 2007 and 2006 is performed as follows:

	2008		2007		2006	
	Income	Shares	Income	Shares	Income	Shares
<i>(dollars in thousands, except per share amounts)</i>						
Income available to common Stockholders	\$ 13,950	6,706,535	\$ 22,504	6,644,374	\$ 20,590	6,451,037
Effect of dilutive securities	—	94,668	—	130,550	—	161,493
Income available to common Stockholders plus assumed conversion	<u>\$ 13,950</u>	<u>6,801,203</u>	<u>\$ 22,504</u>	<u>6,774,924</u>	<u>\$ 20,590</u>	<u>6,612,530</u>
<b>EARNINGS PER COMMON SHARE</b>						
Basic	<u>\$ 2.08</u>		<u>\$ 3.39</u>		<u>\$ 3.19</u>	
Diluted	<u>\$ 2.05</u>		<u>\$ 3.32</u>		<u>\$ 3.11</u>	

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**Note 8: Stock-Based Compensation Plans**

At December 31, 2008, the Company has three incentive compensation plans that are described below:

STOCK INCENTIVE PLAN

The Company maintains the Stock Incentive Plan that has been adopted and amended from time to time by the Company's Board of Directors, and approved by its stockholders. The Stock Incentive Plan permits the issuance of stock options to non-employee directors, other than those directors owning more than 5% of the Company's outstanding Common Stock, officers and other key employees of the Company who are expected to contribute to the Company's future growth and success. The Company may grant options up to a maximum of 1,350,000 shares of Common Stock, of which 252,918 are available for grant at December 31, 2008. The option price is equal to the fair market value of the Common Stock at the date of grant. Options granted to non-employee directors vest over a three-year period, and options granted to employees vest over a four-year period. All options under the Stock Incentive Plan will expire no later than ten years after the grant date. Forfeited options may be reissued and are included in the amount available for grants.

A summary of the Stock Incentive Plan activity as of and for the years ended December 31, 2008, 2007 and 2006 is presented below:

	Shares Available for Grant	Non-Vested Stock Awards Outstanding		Stock Options Outstanding	
		Number of Shares	Weighted- Average Grant Fair Value	Number of Shares	Weighted- Average Exercise Price
Balance, January 1, 2006	143,543	137,300	\$ 5.57	482,650	\$ 9.69
Granted	(60,000)	60,000	9.23	60,000	21.36
Stock options exercised				(144,125)	10.02
Stock awards vested		(63,500)	5.15		
Forfeited	19,625	(19,625)	5.17	(19,625)	10.15
Balance, December 31, 2006	103,168	114,175	7.80	378,900	11.77
Additional shares reserved	400,000				
Granted	(161,000)	161,000	16.70	161,000	33.25
Stock options exercised				(84,750)	10.60
Stock awards vested		(49,625)	6.60		
Forfeited	51,500	(51,500)	13.13	(51,500)	30.93
Balance, December 31, 2007	393,668	174,050	14.80	403,650	18.14
Granted	(160,000)	160,000	15.12	160,000	27.23
Stock options exercised				(64,850)	9.64
Stock awards vested		(63,225)	12.00		
Forfeited	19,250	(19,250)	18.57	(19,250)	32.07
<b>Balance, December 31, 2008</b>	<b>252,918</b>	<b>251,575</b>	<b>\$ 15.42</b>	<b>479,550</b>	<b>\$ 21.77</b>

The following table summarizes information about stock options outstanding at December 31, 2008:

Range of Exercise Prices	Options Outstanding			Options Exercisable	
	Number of Shares	Weighted- Average Remaining Years Contractual Life	Weighted- Average Exercise Price	Number of Shares	Weighted- Average Exercise Price
\$5.12 to \$7.35	76,300	3.0	\$ 6.45	76,300	\$ 6.45
\$8.45 to \$9.90	30,000	3.3	9.56	30,000	9.56
\$10.83 to \$13.42	44,600	6.4	11.73	34,600	11.59
\$14.18 to \$27.29	125,900	6.6	17.29	53,250	17.06
\$31.95 to \$42.50	202,750	7.8	34.33	33,825	33.32
<b>Outstanding at end of year</b>	<b>479,550</b>	<b>6.3</b>	<b>\$ 21.77</b>	<b>227,975</b>	<b>\$ 14.10</b>
<b>Exercisable at end of year</b>	<b>227,975</b>	<b>3.8</b>			

Proceeds from stock option exercises totaled \$625,000 in 2008, \$898,000 in 2007 and \$1.4 million in 2006. Shares issued in connection with stock option exercises are issued from available authorized shares. Tax benefits realized from stock options exercised totaled \$529,000 in 2008, \$958,000 in 2007 and \$1.1 million in 2006.

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Based upon the closing stock price of \$14.49 at December 31, 2008, the aggregate intrinsic value of outstanding in-the-money stock options and outstanding exercisable in-the-money stock options was \$888,000 and \$865,000, respectively. Intrinsic value of stock options is calculated as the amount by which the market price of USAP common stock exceeds the exercise price of the options. The aggregate intrinsic value of stock options exercised was \$1.5 million in 2008, \$2.6 million in 2007 and \$2.8 million in 2006. The total fair value of share awards vested was \$759,000 during 2008, \$328,000 in 2007 and \$327,000 in 2006.

*Stock-Based Compensation Expense.* The Company adopted the provisions of SFAS 123R on January 1, 2006. SFAS 123R requires that stock-based compensation to employees and directors be recognized as compensation expense in the income statement based on their fair values on the measurement date, which, for the Company, is the date of the grant. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service periods. The compensation expense recognized and its related tax effects are included in additional paid-in capital. Additional paid-in capital is further adjusted for the difference between compensation expense recorded under SFAS 123R and compensation expense reported for tax purposes upon actual exercise of employee stock options.

Stock-based compensation expense totaled \$838,000 in 2008 and \$427,000 in 2007. Stock-based compensation expense is recognized ratably over the requisite service period for all awards. The tax benefit associated with the stock compensation expense recognized in the accompanying Consolidated Statements of Operations was \$305,000 in 2008 and \$152,000 in 2007. Unrecognized stock-based compensation expense related to non-vested stock awards totaled \$2,361,000 at December 31, 2008. At such date, the weighted-average period over which this unrecognized expense was expected to be recognized was 34 months.

*Valuation of Stock-Based Compensation.* The fair value of the Company's employee stock options granted is estimated on the measurement date, which, for the Company, is the date of grant. The Company uses the Black-Scholes option-pricing model. The weighted-average fair value of stock options granted was \$2,420,000 for 2008, \$2,689,000 for 2007, and \$554,000 for 2006. The Company's determination of fair value of share-based payment awards on the date of grant is affected by the Company's stock price as well as assumptions regarding the Company's expected stock price volatility over the term of the awards, and actual and projected employee stock option exercise behaviors.

The assumptions used to determine the fair value of options granted are detailed in the table below:

	2008	2007	2006
Risk-free interest rate	2.19 to 3.87 %	3.53 to 4.87 %	3.19 to 5.04 %
Dividend yield	0.0%	0.0%	0.0%
Expected market price volatility	47 to 53%	47 to 49%	45 to 50%
Weighted-average expected market price volatility	49.8%	47.9%	47.6%
Expected term	5.8 to 8.2 years	5.8 to 8.2 years	5.0 years

The risk-free interest rate was developed using the U.S. Treasury yield curve for periods equal to the expected life of the options at the grant date. No dividend yield was assumed because the Company does not pay cash dividends on Common Stock and currently has no plans to pay a dividend. Expected volatility is based on the long-term historical volatility (estimated over a period equal to the expected term of the options) of the Company's stock. In estimating the fair value of stock options under the Black-Scholes option-pricing model, separate groups of employees that have similar historical exercise behavior are considered separately. The expected term of options granted represents the period of time that options granted are expected to be outstanding.

## EMPLOYEE STOCK PURCHASE PLAN

Under the 1996 Employee Stock Purchase Plan (the "Stock Purchase Plan"), the Company is authorized to issue up to 90,000 shares of Common Stock to its full-time employees, nearly all of whom are eligible to participate. At the Annual Meeting of Stockholders of the Company held May 17, 2006, shareholders approved an amendment to the Stock Purchase Plan to reserve an additional 60,000 shares of Common Stock for issuance under the plan. Under the terms of the plan, employees can choose as of January 1 and July 1 of each year to have up to 10% of their total earnings withheld to purchase up to 100 shares of the Company's Common Stock each six-month period. The purchase price of the stock is 85% of the lower of its beginning-of-the-period or end-of-the-period market prices. At December 31, 2008, the Company has issued 104,247 shares of Common Stock since the plan's inception.

## CASH INCENTIVE PLANS

The Company has a management cash incentive plan covering certain key executives and employees and profit-sharing plans that cover the remaining employees. The profit-sharing plans provide for the sharing of pre-tax profits in excess of specified amounts. For the years ended December 31, 2008, 2007 and 2006, the Company expensed \$3,484,000, \$5,823,000 and \$5,285,000, respectively, under these plans.



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**Note 9: Retirement Plans**

The Company has defined contribution retirement plans that cover substantially all employees. The Company accrues its contributions to the hourly employee plan based on time worked while contributions to the salaried plan are accrued as a fixed amount per month. Company contributions to both plans are funded periodically.

Effective January 6, 2003, the Company began to participate in the Steelworkers Pension Trust ("Trust"), a multi-employer defined-benefit pension plan that is open to all hourly and salaried employees associated with the Bridgeville facility. The Company makes periodic contributions to the Trust based on hours worked at a fixed rate for each hourly employee and a fixed monthly contribution on behalf of each salaried employee. The hourly employees may continue their contributions to the defined contribution retirement plan even if the Company contributions cease. The company has the option and right to terminate participation in the Trust if the withdrawal liability ratio of assets to liabilities is below 100%.

The Company also makes a contribution to the defined contribution retirement plan on behalf of each salaried employee participating in the Trust. The amount of the contribution for salaried employees will be dependent upon their contribution to the 401(k) retirement plan.

The total expense for the years ended December 31, 2008, 2007 and 2006 was \$972,000, \$873,000 and \$888,000, respectively, including \$494,000, \$531,000 and \$572,000, respectively, for the multi-employer Trust. No other post-retirement benefit plans exist.

**Note 10: Commitments and Contingencies**

From time to time, various lawsuits and claims have been or may be asserted against the Company relating to the conduct of our business, including routine litigation relating to commercial and employment matters. In May 2007, the Company settled a product claim lawsuit. The net impact of this settlement, including professional fees, on the Company's net income after tax was \$517,000. The ultimate cost and outcome of any litigation or claim cannot be predicted with certainty. Management believes, based on information presently available, that the likelihood that the ultimate outcome of any such pending matter will have a material adverse effect on its financial condition, or liquidity or a material impact to our results of operations is remote, although the resolution of one or more of these matters may have a material adverse effect on its results of operations for the period in which the resolution occurs.

The Company, as well as other steel companies, is subject to demanding environmental standards imposed by federal, state and local environmental laws and regulations. The Company is not aware of any environmental condition that currently exists at any of its facilities that would cause a material adverse effect on the financial condition of the Company, results of operations or liquidity in a particular future quarter or year.

The CDSOA provides for payment of import duties collected by the U.S. Treasury to domestic companies injured by unfair foreign trade practices. In accordance with the CDSOA, which expired in 2007, the Company filed claims to receive its appropriate share of the import duties collected. In 2006, 2007 and 2008 the Company received \$463,000, \$586,000 and \$599,000, respectively, from the U.S. Treasury net of expenses incurred. Future benefits are dependent on the amount of undistributed import duties collected as of September 30, 2007 and the relationship of Dunkirk Specialty Steel's claim in relation to claims filed by other domestic specialty steel producers.

The Company's purchase obligations include the value of all open purchase orders with established quantities and purchase prices, as well as minimum purchase commitments, all made in the normal course of business. At December 31, 2008, the Company's total purchase obligations were \$13,628,000, all of which will be due in year 2009.

On January 29, 2009, the Company announced that it will invest \$13 million in its Bridgeville melt shop. The investment will include major upgrades in equipment, automation and plant layout designed to: cut production cycle times and customer lead times; improve on-time delivery performance; increase material yields; reduce operating costs and enhance working capital management. The equipment and infrastructure spending will be completed by the end of 2009, and the automation investment will be completed by the middle of 2010. The project is expected to begin producing cost savings in the 2009 fourth quarter. Once fully implemented, the investment is expected to yield cost savings of more than \$7.5 million per year. The Company expects to fund substantially all of the investment with a bank term loan.

**Note 11: Segment and Related Information**

The Company is comprised of three operating locations and one corporate headquarters. For segment reporting, the Bridgeville and Titusville facilities have been aggregated into one reportable segment, Universal Stainless & Alloy Products, because of the management reporting structure in place. The Universal Stainless & Alloy Products manufacturing process involves melting, remelting, treating and hot and cold rolling of semi-finished and finished specialty steels. A second reportable segment, Dunkirk Specialty Steel has a manufacturing process involving hot rolling and finishing specialty steel bar, rod and wire products.

At December 31, 2008, 81% of the Company's 514 employees are covered by USW collective bargaining agreements.

The accounting policies of both reportable segments are the same as those described in Note 1: Significant Accounting Policies. Sales between the segments are generally made at market-related prices. Corporate assets are primarily cash and cash equivalents, prepaid expenses, deferred income taxes, and property, plant and equipment.

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<u>For the years ended December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>	<u>2007</u>	<u>2006</u>
<b>NET SALES</b>			
Universal Stainless & Alloy Products	<b>\$206,638</b>	\$202,562	\$179,170
Dunkirk Specialty Steel	<b>69,564</b>	81,725	70,255
Intersegment	<b>(41,096)</b>	(54,351)	(45,552)
	<b><u>\$235,106</u></b>	<b><u>\$229,936</u></b>	<b><u>\$203,873</u></b>
<b>OPERATING INCOME</b>			
Universal Stainless & Alloy Products	<b>\$ 15,680</b>	\$ 20,475	\$ 19,674
Dunkirk Specialty Steel	<b>3,412</b>	12,723	11,472
Intersegment	<b>—</b>	209	1,213
	<b><u>\$ 19,092</u></b>	<b><u>\$ 33,407</u></b>	<b><u>\$ 32,359</u></b>
<b>INTEREST EXPENSE AND OTHER FINANCING COSTS <sup>A</sup></b>			
Universal Stainless & Alloy Products	<b>\$ 28</b>	\$ 614	\$ 889
Dunkirk Specialty Steel	<b>77</b>	117	217
	<b><u>\$ 105</u></b>	<b><u>\$ 731</u></b>	<b><u>\$ 1,106</u></b>
<b>OTHER INCOME, NET</b>			
Universal Stainless & Alloy Products	<b>\$ 221</b>	\$ 126	\$ 55
Dunkirk Specialty Steel <sup>B</sup>	<b>690</b>	650	467
	<b><u>\$ 911</u></b>	<b><u>\$ 776</u></b>	<b><u>\$ 522</u></b>
<b>DEPRECIATION AND AMORTIZATION</b>			
Universal Stainless & Alloy Products	<b>\$ 3,454</b>	\$ 3,382	\$ 3,058
Dunkirk Specialty Steel	<b>605</b>	280	214
Corporate	<b>108</b>	69	65
	<b><u>\$ 4,167</u></b>	<b><u>\$ 3,731</u></b>	<b><u>\$ 3,337</u></b>
<b>CAPITAL EXPENDITURES</b>			
Universal Stainless & Alloy Products	<b>\$ 6,496</b>	\$ 4,419	\$ 6,397
Dunkirk Specialty Steel	<b>6,236</b>	3,197	41
Corporate	<b>173</b>	1,166	1,278
	<b><u>\$ 12,905</u></b>	<b><u>\$ 8,782</u></b>	<b><u>\$ 7,716</u></b>

<sup>A</sup> Includes amortization of deferred financing costs of \$19,000, \$9,000 and \$23,000 for the years ended December 31, 2008, 2007 and 2006, respectively.

<sup>B</sup> Includes net receipt of import duties of \$599,000 in 2008, \$568,000 in 2007 and \$463,000 in 2006.

<u>December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>	<u>2007</u>
<b>ASSETS</b>		
Universal Stainless & Alloy Products	<b>\$119,941</b>	\$110,669
Dunkirk Specialty Steel	<b>37,974</b>	35,983
Corporate	<b>25,029</b>	17,644
	<b><u>\$182,944</u></b>	<b><u>\$164,296</u></b>

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The following table presents net sales by product line:

<u>For the years ended December 31,</u> <i>(dollars in thousands)</i>	<u>2008</u>	<u>2007</u>	<u>2006</u>
Stainless steel	<b>\$172,222</b>	\$164,228	\$151,633
Tool steel	<b>39,046</b>	28,119	23,389
High-strength low alloy steel	<b>11,936</b>	25,892	16,467
High-temperature alloy steel	<b>7,931</b>	9,317	9,837
Conversion services	<b>1,941</b>	2,011	2,137
Other	<b>2,030</b>	369	410
<b>Total net sales</b>	<b><u>\$235,106</u></b>	<b><u>\$229,936</u></b>	<b><u>\$203,873</u></b>

Net sales to the Company's two largest customers and their affiliates approximated 26% of total 2008 sales, and the accounts receivable balances from these customers comprised approximately 14% of total accounts receivable at December 31, 2008. Net sales to the Company's three largest customers and their affiliates approximated 38% of total 2007 sales, and the accounts receivable balances from these customers comprised approximately 21% of total accounts receivable at December 31, 2007. Net sales to the Company's three largest customers and their affiliates approximated 34% of total 2006 sales.

The Company derives 5% of its revenues from markets outside of the United States and the Company has no assets located outside the United States.

### Note 12: Selected Quarterly Financial Data (unaudited)

<i>(dollars in thousands, except per share amounts)</i>	<u>First Quarter</u>	<u>Second Quarter</u>	<u>Third Quarter</u>	<u>Fourth Quarter</u>
<b>2008 DATA</b>				
Net sales	\$ 56,845	\$ 63,482	\$ 57,639	\$ 57,140
Gross profit margin	<b>10,066</b>	<b>10,464</b>	<b>6,599</b>	<b>3,048</b>
Operating income	<b>6,991</b>	<b>7,830</b>	<b>3,747</b>	<b>524</b>
Provision for income taxes	<b>2,327</b>	<b>2,595</b>	<b>1,063</b>	<b>(37)</b>
Net income	<b>4,723</b>	<b>5,270</b>	<b>2,726</b>	<b>1,231</b>
Earnings per common share:				
Basic	\$ 0.71	\$ 0.79	\$ 0.41	\$ 0.18
Diluted	<b>\$ 0.70</b>	<b>\$ 0.77</b>	<b>\$ 0.40</b>	<b>\$ 0.18</b>
<b>2007 DATA</b>				
Net sales	\$ 56,239	\$ 62,056	\$ 62,008	\$ 49,633
Gross profit margin	13,219	12,614	11,133	8,479
Operating income	10,665	9,207	8,143	5,392
Provision for income taxes	3,655	3,156	2,521	1,616
Net income	<b>6,787</b>	<b>5,862</b>	<b>5,467</b>	<b>4,388</b>
Earnings per common share:				
Basic	\$ 1.03	\$ 0.88	\$ 0.82	\$ 0.66
Diluted	<b>\$ 1.00</b>	<b>\$ 0.87</b>	<b>\$ 0.81</b>	<b>\$ 0.65</b>

The Company's fourth quarter 2008 sales increased 15% over the fourth quarter 2007 on a 19% increase in tons shipped, fueled by a 136% increase in shipments to forgers destined for the global power generation markets, offset by lower surcharges and a 5% decline in aerospace sales through service centers. In total, sales to service centers declined 21% from the 2007 fourth quarter. The Company's 2008 fourth quarter earnings were negatively impacted by an increase in inventory reserves of \$807,000 and were positively impacted by the receipt of import duties of \$599,000 and a reduction in the annual income tax rate to 29.9% from 32.7%. The change in the effective income tax rate is primarily due to the impact of the lower income level on the Company's permanent tax deductions and favorable adjustments to state income provisions.

Nickel costs declined from the third to fourth quarter of 2007. The impact from the change in nickel costs combined with lower total shipment volume reduced company-wide gross margin dollars in the fourth quarter 2007. The Company's 2007 fourth quarter earnings were positively impacted by the receipt of import duties of \$586,000 and a reduction in the annual income tax rate to 32.7% from 34.2%. The change in the effective income tax rate is primarily due to adjustments to state income provisions and tax credits as well as the impact of recognizing a \$180,000 tax credit in Pennsylvania as a result of participating in the state's PAEIT in the fourth quarter 2007.

Earnings per share amounts for each quarter are required to be computed independently. As a result, their sum may not equal the total year earnings per share amounts.

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

None.

**ITEM 9A. CONTROLS AND PROCEDURES**

The Company's management, including the Company's President and Chief Executive Officer and the Vice President of Finance, Chief Financial Officer and Treasurer, performed an evaluation of the effectiveness of the Company's disclosure controls and procedures. Based on that evaluation, the Company's President and Chief Executive Officer and the Vice President of Finance, Chief Financial Officer and Treasurer concluded that, as of the end of the fiscal year covered by this Annual Report on Form 10-K, the Company's disclosure controls and procedures are effective to insure that information required to be disclosed in reports filed or submitted by the Company under the Exchange Act is recorded, processed, summarized and reported within the time limits specified in the SEC rules and forms, and that information required to be disclosed by the Company is accumulated and communicated to the Company's management to allow timely decisions regarding the required disclosure. Management's Report on the Company's internal control over financial reporting is included in Item 8 of this Annual Report on Form 10-K under the caption "Management's Report on Internal Control Over Financial Reporting" and is incorporated herein by reference. The Company's independent registered public accounting firm has issued a report on management's maintenance of effective internal control over financial reporting and is set forth in Item 8 of this Annual Report on Form 10-K under the caption "Report of Independent Registered Public Accounting Firm" and is incorporated herein by reference.

During the last fiscal quarter of the fiscal year ended December 31, 2008, there were no changes in the Company's internal control over financial reporting which have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

**ITEM 9B. OTHER INFORMATION**

None.

**PART III**

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

The information concerning the directors of the Company is set forth in the Proxy Statement for the 2009 Annual Meeting of Stockholders (the "Proxy Statement") to be sent to stockholders in connection with the Company's Annual Meeting of Stockholders to be held on May 20, 2009, under the heading "Proposal No. 1—Election of Directors," which information is incorporated by reference. With the exception of the information specifically incorporated herein by reference, the Company's Proxy Statement is not to be deemed filed as part of this report for the purposes of this Item.

In addition to the information set forth under the caption "Executive Officers" in Part I of this report, the information concerning our directors required by this item is incorporated and made part hereof by reference to the material appearing under the heading "Nominees for Election as Directors" in the Company's Proxy Statement, which will be filed with the SEC, pursuant to Regulation 14A, not later than 120 days after the end of the 2008 fiscal year. Information concerning the Audit Committee and its "audit committee financial expert" required by this item is incorporated and made part hereof by reference to the material appearing under the heading "Committees of the Board of Directors" in the Proxy Statement. Information required by this item regarding compliance with Section 16(a) of the Exchange Act is incorporated and made a part hereof by reference to the material appearing under the heading "Security Ownership of Certain Beneficial Owners and Management" in the Proxy Statement. Information concerning the executive officers of the Company is contained in Part I of this Annual Report on Form 10-K under the caption "Executive Officers."

The Company has adopted a Code of Business Conduct and Ethics that applies to all directors and employees, including its principal executive officer and principal financial officer. A copy is available, free of charge, through the Company's website at <http://www.univstainless.com>. Information on the Company's website is not part of this Annual Report on Form 10-K. The Company intends to timely disclose any amendment of or waiver under the Code of Business Conduct and Ethics on its website and will retain such information on its website as required by applicable SEC rules.

**ITEM 11. EXECUTIVE COMPENSATION**

The information concerning executive compensation is set forth in the Proxy Statement under the heading "Executive Compensation," which information is incorporated by reference. With the exception of the information specifically incorporated herein by reference, the Proxy Statement is not to be deemed filed as part of this report for the purposes of this Item.

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[Table of Contents](#)**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The information concerning security ownership of certain beneficial owners and management is set forth in the Proxy Statement under the heading "Security Ownership of Certain Beneficial Owners and Management," which information is incorporated by reference. With the exception of the information specifically incorporated herein by reference, the Proxy Statement is not to be deemed filed as part of this report for the purposes of this Item.

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

The information concerning certain relationships and related transactions, and director independence is set forth in the Proxy Statement under the heading "The Board of Directors," which information is incorporated by reference. With the exception of the information specifically incorporated herein by reference, the Proxy Statement is not to be deemed filed as part of this report for the purposes of this Item.

**ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The information concerning principal accountant fees and services is set forth in the Proxy Statement under the heading "Principal Accountant Fees and Services," which information is incorporated by reference. With the exception of the information specifically incorporated herein by reference, the Proxy Statement is not to be deemed filed as part of this report for the purposes of this Item.

**PART IV****ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

The following documents are filed as part of this Form 10-K:

**1) Financial Statements**

The list of financial statements required by this item is set forth in Item 8, "Financial Statements and Supplementary Data" and is incorporated herein by reference.

**2) Consolidated Financial Statement Schedules****Schedule II – Valuation and Qualifying Accounts**

<u>For the Years Ended December 31, 2006, 2007 and 2008</u> <i>(Dollars in thousands)</i>	<u>Balance at</u> <u>Beginning of Year</u>	<u>Charged to Costs</u> <u>and Expenses</u>	<u>Deductions/</u> <u>Net</u> <u>Charge-</u> <u>Offs</u>	<u>Balance at</u> <u>End of Year</u>
<b>INVENTORY RESERVES:</b>				
Year ended December 31, 2006	\$ 637	\$ 1,295	\$ (356)	\$ 1,576
Year ended December 31, 2007	1,576	3,390	(2,771)	2,195
<b>Year ended December 31, 2008</b>	<b><u>2,195</u></b>	<b><u>4,039</u></b>	<b><u>(3,038)</u></b>	<b><u>3,196</u></b>
<b>ALLOWANCE FOR DOUBTFUL ACCOUNTS:</b>				
Year ended December 31, 2006	\$ 272	\$ 78	\$ (12)	\$ 338
Year ended December 31, 2007	338	2	(29)	311
<b>Year ended December 31, 2008</b>	<b><u>311</u></b>	<b><u>13</u></b>	<b><u>6</u></b>	<b><u>330</u></b>

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### 3) Exhibits

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	
3.1	Amended and Restated Certificate of Incorporation	Incorporated herein by reference to Exhibit 3.1 to Registration No. 33-85310.
3.2	Amended and Restated By-laws of the Company	Incorporated herein by reference to Exhibit 3.1 on Form 8-K filed November 27, 2007.
4.1	Specimen Copy of Stock Certificate for shares of Common Stock	Incorporated herein by reference to Exhibit 4.1 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
10.1	Stockholders Agreement dated as of August 1, 1994, by and among the Company and its existing stockholders	Incorporated herein by reference to Exhibit 10.1 to Registration No. 33-85310.
10.2	Credit Agreement, dated as of February 27, 2009, between the Company and PNC Bank, National Association	Filed herewith.
10.3	Employment Agreement dated December 21, 2007 between the Company and Dennis M. Oates	Incorporated herein by reference to Exhibit 10.7 to the Company's Annual Report on Form 10-K for the year ended December 31, 2007.
10.4	Employment Agreement dated February 21, 2008 between the Company and Paul McGrath	Incorporated herein by reference to Exhibit 10.4 to the Company's Annual Report on Form 10-K for the year ended December 31, 2007.
10.5	Employment Agreement dated February 22, 2008 between the Company and Richard M. Ubinger	Incorporated herein by reference to Exhibit 10.5 to the Company's Annual Report on Form 10-K for the year ended December 31, 2007.
10.6	Employment Agreement dated February 11, 2009 between the Company and William W. Beible, Jr.	Filed herewith.
10.7	Stock Incentive Plan	Incorporated herein by reference to Exhibit 10.9 to the Company's Annual Report on Form 10-K for the year ended December 31, 2002.
10.8	Promissory Note, dated as of February 13, 2002, between the Company and New York Job Development Authority	Incorporated herein by reference to Exhibit 10.24 to the Company's Annual Report on Form 10-K for the year ended December 31, 2001.
10.9	Promissory Note, dated as of February 14, 2002, between the Company and New York Job Development Authority	Incorporated herein by reference to Exhibit 10.25 to the Company's Annual Report on Form 10-K for the year ended December 31, 2001.
21.1	Subsidiaries of Registrant	Filed herewith.
23.1	Consent of Schneider Downs & Co., Inc.	Filed herewith.
24.1	Powers of Attorney	Included on the signature page herein.
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith.
32.1	Certification of Chief Executive Officer and Chief Financial Officer pursuant to Rule 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	Filed herewith.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, on March 6, 2009.

UNIVERSAL STAINLESS & ALLOY PRODUCTS, INC.

By: /s/ Dennis M. Oates  
Dennis M. Oates  
President and Chief Executive Officer

POWER OF ATTORNEY

Each of the officers and directors of Universal Stainless & Alloy Products, Inc., whose signature appears below in so signing also makes, constitutes and appoints Dennis M. Oates and Paul A. McGrath, and each of them acting alone, his true and lawful attorney-in-fact, with full power of substitution, for him in any and all capacities, to execute and cause to be filed with the SEC any and all amendment or amendments to this Report on Form 10-K, with exhibits thereto and other documents connected therewith and to perform any acts necessary to be done in order to file such documents, and hereby ratifies and confirms all that said attorney-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof.

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

<u>SIGNATURE</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ Dennis M. Oates</u> Dennis M. Oates	President, Chief Executive Officer and Director (Principal Executive Officer)	March 6, 2009
<u>/s/ Richard M. Ubinger</u> Richard M. Ubinger	Vice President of Finance, Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)	March 6, 2009
<u>/s/ C. M. McAninch</u> Clarence M. McAninch	Director and Chairman of the Board	March 6, 2009
<u>/s/ Douglas M. Dunn</u> Douglas M. Dunn	Director	March 6, 2009
<u>/s/ M. David Komblatt</u> M. David Komblatt	Director	March 6, 2009
<u>/s/ Udi Toledano</u> Udi Toledano	Director	March 6, 2009

CREDIT AGREEMENT

Between

UNIVERSAL STAINLESS & ALLOY PRODUCTS, INC.,  
as the Borrower

and

PNC BANK, NATIONAL ASSOCIATION,  
as the Bank

Dated as of February 27, 2009

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LIST OF EXHIBITS \*

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\* Exhibits are not included in the filing but will be provided at no cost upon request.

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\* Schedules are not included in the filing but will be provided at no cost upon request.

## CREDIT AGREEMENT

THIS CREDIT AGREEMENT, dated as of February 27, 2009 (as more fully defined below the "Agreement"), entered into by and between UNIVERSAL STAINLESS & ALLOY PRODUCTS, INC., a Delaware corporation (as more fully defined below the "Borrower"), and PNC BANK, NATIONAL ASSOCIATION, a national banking association (as more fully defined below the "Bank").

### RECITALS:

WHEREAS, the Borrower has requested that the Bank establish for the Borrower certain credit accommodations consisting of (i) revolving credit loans in the aggregate principal amount not to exceed \$15,000,000.00, and (ii) term loans in the aggregate principal amount not to exceed \$12,000,000.00, all as provided for herein; and

WHEREAS, the Borrower desires to borrow, and the Bank desires to make available to the Borrower from time to time the loans and other extensions of credit hereinafter set forth, under and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises (each of which is incorporated herein by reference) and the mutual promises contained herein and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, and with the intent to be legally bound hereby, the parties hereto agree as follows:

### ARTICLE 1. DEFINITIONS

**1.1 Defined Terms.** As used in this Agreement, including the preamble and recitals hereto, the following terms shall have the respective meanings set forth below or in the Section of this Agreement referred to, unless the context otherwise requires:

**Additional Equity Infusion:** Receipt by the Borrower on and after the Closing Date of the net proceeds of a public offering or private placement of Borrower's equity securities.

**Affiliate:** As to any Person, any other Person (i) which directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, such Person, or (ii) which beneficially owns or holds 25 percent or more of any class of the voting securities of the Borrower or 25 percent or more of the voting stock (or in the case of a Person which is not a corporation, 25 percent or more of the equity interest) of which is beneficially owned or held, directly or indirectly, by the Borrower or a Subsidiary. For purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise, including the power to elect a majority of the directors of a corporation or trustees of a trust, as the case may be.

**Agreement:** On and after the Closing Date, as used in each Loan Document except the Working Cash Sweep Agreement, this Credit Agreement, all exhibits and schedules hereto and all extensions, renewals, amendments, substitutions and replacements hereof and hereto; and on and after the Closing Date when this Agreement is referred to in the Working Cash Sweep Agreement it shall be referred to as the "Credit Agreement".

**Anti-Terrorism Laws:** Any laws relating to terrorism or money laundering, including Executive Order No. 13224, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by the United States Treasury Department's Office of Foreign Asset Control (as any of the foregoing laws may from time to time be amended, renewed, extended, or replaced).

**Applicable Commitment Fee:** The percentage (expressed in basis points) determined from time to time based upon the ratio of the Borrower's Consolidated Total Indebtedness to the Borrower's Consolidated EBITDA which corresponds to the range of ratios in which the Borrower's Consolidated Total Indebtedness to Consolidated EBITDA Ratio, as at the end of the preceding fiscal quarter, falls:

<u>Consolidated Total Indebtedness to Consolidated EBITDA Ratio</u>	<u>Applicable Commitment Fee</u>
Less than 1.50 to 1.0	0.25%
Greater than or equal to 1.50 to 1.0 but less than 2.75 to 1.0	0.375%
Greater than or equal to 2.75 to 1.0	0.50%

All such adjustments shall be determined as of the date that the Borrower's quarterly financial statements and Compliance Certificate are delivered to the Bank pursuant to Sections 5.2a, 5.2b and 5.2c.

**Applicable Margin:** The percentage (expressed in basis points) determined from time to time based upon the ratio of the Borrower's Consolidated Total Indebtedness to the Borrower's Consolidated EBITDA, as at the end of the preceding fiscal quarter, set forth under the relevant column heading below.

	Ratio of Consolidated Total Indebtedness to Consolidated EBITDA	Revolving Credit Loans		Term Loan	
		LIBOR Rate	Base Rate	LIBOR Rate	Base Rate
LEVEL I	Less than 1.50 to 1.0	162.5	62.5	212.5	112.5
LEVEL II	Equal to or greater than 1.50 to 1.0 but less than 2.75 to 1.0	225	125	275	175
LEVEL V	Greater than or equal to 2.75 to 1.0	300	200	350	250

All such adjustments shall be determined as of the date that the Borrower's annual and quarterly financial statements, and Compliance Certificate are delivered to the Bank pursuant to Sections 5.2a, 5.2b and 5.2c.

**Authorized Officer:** The Chairman of the Board, the President, the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer, any Vice President or the Treasurer of the Borrower. The Bank shall be entitled to rely on the incumbency certificate delivered pursuant to Section 7.2 for the initial designation of each Authorized Officer. Additions or deletions to the list of Authorized Officers may be made by the Borrower at any time by delivering to the Bank a revised, fully-executed incumbency certificate.

**Bank:** PNC Bank, National Association, a national banking association, and its successors and assigns.

**Base Rate:** A fluctuating rate of interest per annum equal to the greatest of (i) the Prime Rate, (ii) the sum of (A) the Federal Funds Open Rate plus (B) 1/2 of one percent (.50%), or (iii) the sum of (A) the Daily LIBOR Rate plus (B) one percent (1.00%).

**Base Rate Option:** The ability of the Borrower to elect to have all or any portion of the Loans bear interest at the Interest Rate Option set forth in Subsection 2.3a(i).

**Benefit Arrangement:** An "employee benefit plan", within the meaning of Section 3(3) of ERISA, which is not a Plan or a Multiemployer Plan and which is maintained or otherwise contributed to by the Borrower or any ERISA Affiliate for the benefit of employees of the Borrower or any ERISA Affiliate.

**Blocked Person:** (1) A person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (2) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (3) a Person with which any financial institution is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law; (4) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224; (5) a Person that is named as a "specially designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list, or (6) a Person who is affiliated or associated with any of the foregoing.

**Borrower:** Universal Stainless & Alloy Products, Inc., a Delaware corporation, and its successors and permitted assigns.

**Borrowing Tranche:** Each portion of the Loans bearing interest at a discrete LIBOR Rate Option, that portion of the Revolving Credit Loans bearing interest at the Base Rate Option and that portion of the Term Loan bearing interest at the Base Rate Option.

**Business Day:** A day other than a Saturday or a Sunday on which the Bank and the Trustee are open for business.

**Capital Adequacy Event:** This term shall have the meaning given it in Section 2.5.

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Capital Compensation Amount: This term shall have the meaning given it in Section 2.5.

Capital Expenditure: Any expenditure which would be classified as a capital expenditure in accordance with GAAP.

Capitalized Lease: Any lease of property by a Person, or any Consolidated Subsidiary of such a Person, as lessee, which would be capitalized on the Consolidated balance sheet of such a Person prepared in accordance with GAAP.

Capitalized Lease Obligations: The amount of the Consolidated obligations of a Person under Capitalized Leases which would be shown as a liability on a balance sheet of such a Person prepared in accordance with GAAP.

Closing Date: February 27, 2009, or such other date as is mutually agreeable to the parties hereto.

Closing Fee: A closing fee equal to \$67,500.

Commitment Fee: The fee described in Section 2.8.

Compliance Certificate: A certificate substantially in the form of Exhibit "C" which has been executed by an Authorized Officer and delivered to the Bank.

Consolidated: The consolidation in accordance with GAAP of the items as to which such term applies.

Consolidated Debt Service: The Consolidated scheduled payments of principal and interest on Indebtedness of the Borrower and its Subsidiaries during the relevant fiscal period.

Consolidated Excess Cash Flow: The amount by which, as the end of the relevant fiscal period, the Borrower's EBITDA for such period exceeds the Borrower's Consolidated Fixed Charges for such period.

Consolidated Fixed Charges: Without duplication, the sum of the Borrower's and its Subsidiaries' Consolidated interest expense, Consolidated tax expense less any deferred portion of such tax expense, scheduled payments of principal of Consolidated Total Indebtedness, payments due under Capitalized Leases and Capital Expenditures which are not Funded Capital Expenditures during the relevant fiscal period.

Consolidated Net Income: The Consolidated net income of the Borrower and its Subsidiaries for the period in question, after deducting all Consolidated operating expenses, provisions for all taxes and all other proper deductions, all determined in accordance with GAAP.

Consolidated Tangible Net Worth: The Borrower's Consolidated stockholders' equity, after subtracting all items properly classified as intangible, as determined in accordance with GAAP consistently applied.

Consolidated Total Indebtedness: The Indebtedness of the Borrower and its Subsidiaries on a Consolidated basis, net of excess cash balances, all as determined in accordance with GAAP consistently applied.

Contamination: The presence of any Hazardous Substance at any real property owned or leased by the Borrower which requires investigation, clean-up or remediation under any Environmental Law.

Credit Amount: A "Credit Amount" as defined in the Working Cash Sweep Agreement.

Daily LIBOR Rate: For any day, the rate per annum determined by the Bank dividing (x) the Published Rate by (y) a number equal to 1.00 minus the percentage prescribed by the Federal Reserve for determining the maximum reserve requirements with respect to any Eurocurrency funding by banks on such day.

Default: Any condition, event, omission or act which, with the giving of notice, the passage of time or both, would constitute an Event of Default.

Default Rate: The rate of interest charged pursuant to Section 2.3b(iv) hereof.

Dollars or \$: The legal tender of the United States of America.

Dunkirk: Dunkirk Specialty Steel, LLC, a Delaware limited liability company, and a Subsidiary of Borrower and a guarantor of the Indebtedness issued hereunder.



**EBITDA:** For the period in question (tested on a rolling four-quarters basis as of the end of the Fiscal Quarter in question): the sum of (i) Consolidated Net Income, plus (ii) Consolidated income tax expense, plus (iii) Consolidated interest expense, plus (iv) Consolidated depreciation expense, plus (v) Consolidated amortization expense, each determined in accordance with GAAP, excluding (A) any Consolidated non-recurring or extraordinary income or losses for such period in question determined in accordance with GAAP and (B) the Net Income of any other Person acquired by the Borrower in a transaction accounted for as a pooling of interests for any period prior to the date of such acquisition.

**Encumbrance:** Any security interest, mortgage, charge, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any Capitalized Lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code) in, upon, or against any asset of the Borrower or any Subsidiary, whether or not voluntarily given.

**Environmental Claim:** Any written claim, suit notice or order made by a Person (including without limitation a Governmental Authority) or any written demand made by a Governmental Authority with respect to the Borrower or Dunkirk or any of their respective properties, whether owned or leased, that: (i) asserts a violation of an Environmental Law; (ii) asserts a liability under an Environmental Law; (iii) orders investigations, corrective action, remediation or other response under an Environmental Law; (iv) demands information under an Environmental Law; (v) alleges personal injury or property damage resulting from Hazardous Substances; or (vi) alleges that there is or may be Contamination.

**Environmental Law:** Any Governmental Rule concerning protection or regulation of the discharge of substances into the environment, including but not limited to those concerning air emissions, water discharges and treatment, storage tanks, and the handling, generation, treatment, storage and disposal of waste materials, chemical substances, pollutants, contaminants, toxic substances, pathogens, radioactive materials or hazardous substances of any kind, whether solid, liquid or gaseous.

**ERISA:** The Employee Retirement Income Security Act of 1974 or any successor legislation thereto, and the rules and regulations promulgated thereunder, including any amendments to any of the foregoing.

**ERISA Affiliate:** Any member of a controlled group of corporations under Section 414(b) of the Internal Revenue Code of which the Borrower is a member, and any trade or business (whether or not incorporated) under common control with the Borrower under Section 414(c) of the Internal Revenue Code, and all other entities which, together with the Borrower, are or were treated as a single employer under Sections 414(m) or 414(o) of the Internal Revenue Code.

**Excluded Taxes:** Any Tax imposed on the Bank's net income or capital by any Governmental Authority as a result of the Bank (a) carrying on a trade or business or having a permanent establishment in such jurisdiction, (b) being organized under the laws of such jurisdiction, or (c) being or being deemed to be resident in such jurisdiction.

**Executive Order No. 13224:** This term shall mean the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been or shall hereafter be renewed, extended, amended or replaced.

**Event of Default:** Any of the events specified in Section 8.1.

**FDIC:** The Federal Deposit Insurance Corporation or any entity succeeding to its functions.

**Federal Funds Open Rate:** For any day, that rate per annum (based on a year of 360 days and actual days elapsed) which is the daily federal funds open rate as quoted by ICAP North America, Inc. (or any successor) as set forth on the Bloomberg Screen BTMM for that day opposite the caption "OPEN" (or on such other substitute Bloomberg Screen that displays such rate), or as set forth on such other recognized electronic source used for the purpose of displaying such rate as selected by the Bank (an "Alternate Source") (or if such rate for such day does not appear on the Bloomberg Screen BTMM (or any substitute screen) or on any Alternate Source, or if there shall at any time, for any reason, no longer exist a Bloomberg Screen BTMM (or any substitute screen) or any Alternate Source, a comparable replacement rate determined by the Bank at such time (which determination shall be conclusive absent manifest error); provided however, that if such day is not a Business Day, the Federal Funds Open Rate for such day shall be the daily federal funds open rate as determined pursuant to this sentence on the immediately preceding Business Day. If and when the Federal Funds Open Rate changes, the rate of interest with respect to any advance to which the Federal Funds Open Rate applies will change automatically without notice to the Borrower, effective on the date of any such change.

**Fee:** Any of the fees payable or to be payable by the Borrower to the Bank or the Trustee pursuant to any of the Loan Documents including but not limited to the Commitment Fee, any Letter of Credit Fee and the Closing Fee.

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**Fiscal Quarter:** Each three-month fiscal period of the Borrower beginning respectively on each successive January 1, April 1, July 1 and October 1 during the term hereof and ending on the immediately succeeding March 31, June 30, September 30 and December 31.

**Fiscal Year:** Each 12-month fiscal period of the Borrower, currently January 1 to December 31.

**Funded Acquisition:** The purchase, lease or other acquisition of all or substantially all of the assets of any Person or the purchase or other acquisition of all or substantially all of the capital stock or other equity interests of any Person, any of which is funded entirely by (A) cash of the Borrower and/or proceeds of Revolving Credit Loans, (B) Indebtedness permitted by item (vi) of Section 6.1, (C) an Additional Equity Infusion or (D) a combination thereof.

**Funded Capital Expenditure:** That portion of any Capital Expenditure which is funded by (w) a Government Loan, (x) an Additional Equity Infusion, (y) the Term Loan or (z) Indebtedness permitted by item (iv) of Section 6.1 hereof.

**GAAP:** Generally accepted accounting principles which are consistent with the principles promulgated or adopted by the Financial Accounting Standards Board, its predecessors and its successors, including any official interpretations thereof.

**Governmental Authority:** Any (i) nation, state, government, jurisdiction or jurisdictional authority (domestic, foreign or international), any political subdivision thereof, and any governmental, quasi-governmental, judicial, public, statutory, administrative or regulatory body, agency, department, bureau, authority, court, commission, board, office, instrumentality, administrative tribunal or other entity of any of the foregoing and any official thereof and (ii) any arbitrator, arbitration tribunal or other non-governmental entity which has jurisdiction over the Borrower or a Subsidiary as a result of (A) the written consent of the Borrower or (B) being vested with such jurisdiction by any Governmental Authority.

**Government Loan:** The Indebtedness of a Loan Party to a Governmental Authority which is shown on Schedule 1.1a attached hereto or such other Indebtedness of a Loan Party to a Governmental Authority which is permitted pursuant to the terms of Section 6.1(v) hereof or otherwise approved by the written consent of the Bank.

**Governmental Rule:** Any constitutional provision, law, statute, code, act, rule, regulation, permit, license, treaty, ordinance, order, writ, injunction, decree, judgment, award, standard, directive, decision, determination or holding of any Governmental Authority, whether in existence on the Closing Date or whether issued, enacted or adopted after the Closing Date, and any change therein or in the interpretation or application thereof following the Closing Date.

**Guarantors:** Dunkirk, Holdings and each other Subsidiary of the Borrower that executes a Guaranty of the Obligations in favor of the Bank; and the term "Guarantor" refers to any of the Guarantors.

**Guaranty:** As to any Person, any obligation, direct or indirect, by which such Person undertakes to guaranty, assume or remain liable for the payment of a second Person's obligations, including but not limited to (i) endorsements of negotiable instruments, (ii) discounts with recourse, (iii) agreements to pay or perform upon a second Person's failure to pay or perform, (iv) agreements to remain liable on obligations assumed by a second Person (other than pursuant to Letters of Credit permitted hereunder), (v) agreements to maintain the capital, working capital, solvency or general financial condition of a second Person and (vi) agreements for the purchase or other acquisition of products, materials, supplies or services, if in any case payment therefor is to be made regardless of the nondelivery of such products, materials or supplies or the nonfurnishing of such services.

**Guaranty Agreement:** A guaranty agreement executed by a Guarantor substantially in the form of Exhibit "D" attached hereto, together in each case with all extensions, renewals, amendments, substitutions and replacements thereto and thereof.

**Hazardous Substance:** Any (i) substance which is defined as such or regulated in any manner by any Environmental Law and (ii) petroleum products, including crude oil.

**Hedge Obligations:** The obligations of a Person under an Interest Hedge Agreement.

**Holdings:** USAP Holdings, Inc., a Delaware corporation, 100% of the outstanding capital stock of which is owned legally and beneficially by the Borrower.

**Holdings Credit Agreement:** The credit agreement between the Borrower, as borrower, and Holdings, as lender, dated as of January 1, 2005, as the same may be amended from time to time with the Bank's prior written consent.

**Indebtedness:** All of a Person's (i) obligations and indebtedness for borrowed money, (ii) obligations evidenced by bonds, debentures, notes or similar instruments, (iii) obligations under conditional sale or other title retention agreements relating to property

purchased, (iv) obligations issued or assumed as the deferred purchase price of property or services, (v) Capitalized Lease Obligations, (vi) Hedge Obligations, (vii) obligations (contingent or matured) with respect to letters of credit, including but not limited to letters of credit whether matured or contingent, (viii) obligations of others secured by any Encumbrance on property or assets owned or acquired by a Person, whether or not the obligations secured thereby have been assumed, and (ix) Guarantees and all other contingent liabilities; provided, however, that Indebtedness shall not include the Borrower's or any Subsidiary's accounts payable and accrued liabilities incurred in the ordinary course of business if those accounts payable and accrued liabilities do not constitute obligations to repay borrowed money or deferred purchase price.

Ineligible Securities: Any security which may not be underwritten or dealt in by member banks of the Federal Reserve System under Section 16 of the Bank Act of 1933 (12 U.S.C. Section 24, Seventh), as amended.

Interest Hedge Agreement: Any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate insurance or any other agreement or arrangement designed to provide protection against fluctuations in interest rates, together with all extensions, renewals, amendments, substitutions and replacements to and of any of the foregoing.

Interest Rate Option: Either the Base Rate Option or the LIBOR Rate Option as it applies to the Loans.

Internal Revenue Code: The Internal Revenue Code of 1986, or any successor legislation thereto, and the rules and regulations issued or promulgated thereunder, including any amendments to any of the foregoing.

Investment: The term "Investment" shall have the meaning ascribed to it in the Working Cash Sweep Agreement.

Leased Properties: All lands and premises described in Schedule 1.1b which are leased by a Loan Party and any other lands and premises which are leased by the Borrower or a Subsidiary of the Borrower as the lessee.

Letter of Credit: Any letter of credit issued by the Bank pursuant to this Agreement.

Letter of Credit Fee: The fee described and defined in Section 2.11b.

LIBOR Rate: With respect to Borrowing Tranches to which the LIBOR Rate Option applies for any LIBOR Rate Interest Period, the interest rate per annum determined by the Bank by dividing (the resulting quotient rounded upwards, if necessary, to the nearest  $\frac{1}{100}$ th of 1% per annum) (i) the rate which appears on the Bloomberg Page BBAMI (or on such other substitute Bloomberg page that displays rates at which US dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by the Bank which has been approved by the British Bankers' Association as an authorized information vendor for the purpose of displaying rates at which US dollar deposits are offered by leading banks in the London interbank deposit market (an "Alternate Source"), at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such LIBOR Rate Interest Period as the London interbank offered rate for U.S. Dollars for an amount comparable to such LIBOR Rate Interest Period and having a borrowing date and a maturity comparable to such LIBOR Rate Interest Period (or if there shall at any time, for any reason, no longer exist a Bloomberg Page BBAMI (or any substitute page) or any Alternate Source, a comparable replacement rate determined by the Bank at such time (which determination shall be conclusive absent manifest error)), by (ii) a number equal to 1.00 minus the LIBOR Rate Reserve Percentage. The LIBOR Rate may also be expressed by the following formula:

$$\text{LIBOR Rate} = \frac{\text{Average of London interbank offered rates quoted by Bloomberg or appropriate successor as shown on Bloomberg Page BBAMI}}{1.00 - \text{LIBOR Rate Reserve Percentage}}$$

The LIBOR Rate shall be adjusted with respect to any Borrowing Tranche to which the LIBOR Rate Option applies that is outstanding on the effective date of any change in the LIBOR Rate Reserve Percentage as of such effective date. The Bank shall give prompt notice to the Borrower of the LIBOR Rate as determined or adjusted in accordance herewith, which determination shall be conclusive absent manifest error.

LIBOR Rate Interest Period: Any individual period of one, two, three months or such longer period of time agreed to by the Bank from time to time commencing on the date a LIBOR Rate Option is exercised; provided, however, that (i) any LIBOR Rate Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next Business Day unless such Business Day falls in the succeeding calendar month, in which case such LIBOR Rate Interest Period shall end on the next preceding Business Day, (ii) any LIBOR Rate Interest Period which begins on the last day of a calendar month or on a day for which there is no numerically corresponding day in the subsequent calendar month during which such LIBOR Rate Interest Period is to end shall end on the last Business Day of such subsequent month, (iii) no LIBOR Rate Interest Period for the Revolving Credit Loans may end after the Revolving Credit Termination Date, and (iii) no LIBOR Rate Interest Period for the Term Loan may end after the Term Loan Maturity Date.

LIBOR Rate Loan: All or any portion of the Revolving Credit Loans or Term Loan, as the case may be, bearing interest under the LIBOR Rate Option, as set forth in Subsection 2.3a (i).

LIBOR Rate Option: The ability of the Borrower to elect LIBOR Rate Loans, as set forth in Subsection 2.3a(ii).

LIBOR Rate Reserve Percentage: The maximum percentage (expressed as a decimal rounded upward to the nearest  $\frac{1}{100}$ th of 1%), as determined by the Bank which is in effect during any relevant period, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirements (including supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as "Eurocurrency Liabilities") of a member bank in such System.

Loan: A Revolving Credit Loan or the Term Loan; and the term "Loans" means collectively the Revolving Credit Loans and the Term Loan.

Loan Account: The loan account referred to in Section 2.7.

Loan Document: Any of this Agreement, any Note, any Letter of Credit, any application for Letter of Credit, any Reimbursement Agreement, the Working Cash Sweep Agreement, any other cash management agreement, any Interest Hedge Agreement to which the Borrower is a party thereto and the Bank or an Affiliate of the Bank is the counterparty, any Subordination Agreement to which the Borrower is a party as a borrower and the Bank is party as a lender and all other documents and instruments executed and delivered from time to time to govern, evidence or secure the Obligations, and the exhibits, schedules, statements, reports, certificates and other documents required by, or related to, any of the foregoing, and all extensions, renewals, amendments, substitutions and replacements thereto and thereof.

Loan Party: Any of the Borrower or any Guarantor; and the term "Loan Parties" means collectively, the Borrower and Guarantors.

Material Adverse Change: Any circumstance or event which (i) has or could reasonably be expected to have a material adverse effect upon the validity or enforceability of this Agreement or any of the other Loan Documents, (ii) is material and adverse to the business, properties, assets, financial condition, results of operations or prospects of the Borrower and its Consolidated Subsidiaries, taken as a whole, (iii) impairs materially the ability of the Borrower and the Guarantors to duly and punctually pay or perform the Obligations, or (iv) impairs materially the ability of the Bank, to the extent permitted, to enforce the Bank's legal remedies pursuant to this Agreement and the other Loan Documents.

Minimum Consolidated Tangible Net Worth: Means as of the Closing Date a Consolidated Tangible Net Worth equal to at least \$135,000,000; and for each Fiscal Quarter ending thereafter 50% of the Consolidated Net Income for the Fiscal Quarter just ended plus the Minimum Consolidated Tangible Net Worth calculated as of the later of (i) the Closing Date or (ii) the last day of the Fiscal Quarter immediately preceding the Fiscal Quarter in question.

Money Purchase Plan: Any Benefit Arrangement subject to the minimum funding standards under Section 302 of ERISA and Section 412 of the Internal Revenue Code.

Multiemployer Plan: A "multiemployer plan" as defined in Section 4001(a)(3) of ERISA to which the Borrower or any ERISA Affiliate of the Borrower is making or accruing an obligation to make contributions or has within any of the preceding five plan years made or accrued an obligation to make contributions.

Net Cash Proceeds: The cash proceeds to the Borrower of any disposition of assets permitted by items (ii) and (iii) of Section 6.7, as applicable, less the sum of (i) reasonable costs associated with such disposition of assets, (ii) all Federal, state and local taxes assessed against or paid by the Borrower in connection therewith and (iii) in the case any disposition of assets permitted by items (ii) and (iii) of Section 6.7, the principal amount of any Indebtedness (other than the Loans) which is secured by any asset disposed of and which is required to be repaid in connection therewith.

Note: The Revolving Credit Note or the Term Note; and the term "Notes" means collectively, the Revolving Credit Note and the Term Note.

Obligations: Collectively, (i) all unpaid principal and accrued and unpaid interest under the Loans, (ii) all accrued and unpaid Fees hereunder or under any of the other Loan Documents, (iii) all obligations (contingent or matured) due the Bank pursuant to draws on Letters of Credit, (iv) all Hedge Obligations of a Loan Party to the Bank, (v) any other amounts due hereunder or under

any of the other Loan Documents, including all reimbursements, indemnities, Fees, costs, expenses, prepayment premiums, and other obligations of the Borrower or any Subsidiary to the Bank or any indemnified party hereunder and thereunder, (vi) all other existing and future Indebtedness of the Borrower or any Subsidiary to the Bank under any other agreement or instrument between the Borrower or any Subsidiary and the Bank or among the Borrower or any Subsidiary, the Bank and any other Person, including without limitation any Interest Hedge Agreement and the P Card Agreement, and (vii) all reasonable out-of-pocket costs and reasonable expenses incurred by the Bank in connection with this Agreement and the other Loan Documents, including but not limited to the reasonable fees and expenses of the Bank's counsel.

**Outstanding Revolving Credit Amount:** The sum of the aggregate principal amount of outstanding Revolving Credit Loans, plus the aggregate Stated Amounts of all outstanding Letters of Credit, including any unreimbursed draws on Letters of Credit which have not yet been converted to Revolving Credit Loans.

**Owned Property:** The lands and premises of a Loan Party owned in fee and described in Schedule 1.1b and all plant, buildings, structures, erections, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment) situated on these lands.

**P Card Agreement:** That certain VISA Purchasing Card Agreement by and between the Borrower and the Bank executed as of November 1, 2000 by the Borrower and executed as of November 28, 2000 by the Bank, as the same may be amended, modified or supplemented from time to time.

**Parent Account:** The parent account as so designated in the Working Cash Sweep Agreement and referred to in the Working Cash Sweep Agreement as the "DDA".

**Participant:** Any bank or financial institution which acquires from the Bank an undivided interest in the Bank's Revolving Credit Commitment, in the Loans or in the Letters of Credit, pursuant to Section 9.5.

**Participation:** The sale, made in accordance with the provisions of Section 9.5, by the Bank to any Participant of an undivided interest in the Bank's Revolving Credit Commitment, in the Loans or in the Letters of Credit.

**PBGC:** The Pension Benefit Guaranty Corporation established pursuant to ERISA, or any entity succeeding to any or all of its functions under ERISA.

**Permitted Encumbrance:** Any of the following:

- (i) Encumbrances granted to the Bank;
- (ii) Encumbrances for taxes, assessments, governmental charges or levies on any of a Loan Party's properties if such taxes, assessments, governmental charges or levies (A) are not at the time due and payable or if they can thereafter be paid without penalty or are being contested in good faith by appropriate proceedings diligently conducted and with respect to which the applicable Loan Party has created adequate reserves, and (B) are not pursuant to any Environmental Law;
- (iii) Pledges or deposits to secure payment of workers' compensation obligations, unemployment insurance, deposits or indemnities to secure public or statutory obligations or for similar purposes;
- (iv) Encumbrances arising out of judgments or awards against a Loan Party with respect to which enforcement has been stayed and such Person at the time shall currently be prosecuting an appeal or proceeding for review in good faith by appropriate proceedings diligently conducted and with respect to which the applicable Loan Party has created adequate reserves or has adequate insurance protection; provided, however, that at no time may the aggregate Dollar amount of such liens exceed \$100,000;
- (v) Mechanics', carriers', workmen's, repairmen's and other similar statutory liens incurred in the ordinary course of a Loan Party's business, so long as the obligation secured is not overdue or, if overdue, is being contested in good faith by appropriate actions or proceedings diligently conducted;
- (vi) Security interests in favor of lessors of personal property, which property is the subject of a true lease between such lessor and a Loan Party;
- (vii) Encumbrances existing on the Closing Date and listed on Schedule 6.3; provided, however, that the Dollar amount of the obligation secured by any such Encumbrance shall not exceed the amount shown opposite such Encumbrance on Schedule 6.3; and

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(viii) Security interests in favor of lenders whose loans to a Loan Party are permitted pursuant to Subsections 6.1(iv).

Person: Any individual, partnership, corporation, association, trust, business trust, joint venture, joint stock company, limited liability company, unincorporated organization or enterprise or Governmental Authority.

Plan: Any employee pension benefit plan other than a Multiemployer Plan which is covered by Title IV of ERISA and which either (i) is maintained by the Borrower and/or any ERISA Affiliate of the Borrower for employees of the Borrower and/or any ERISA Affiliate or (ii) has at any time within the preceding five years been maintained by the Borrower and/or any entity which was an ERISA Affiliate at such time for their respective employees.

Prime Rate: For any day, a fluctuating interest rate per annum equal to the rate of interest which the Bank announces from time to time as its prime lending rate, which rate may not be the lowest rate then being charged by the Bank to certain commercial borrowers.

Prohibited Transaction: A “prohibited transaction” as defined under Section 406 of ERISA or Section 4975 of the Internal Revenue Code.

Published Rate: The rate of interest published each Business Day in The Wall Street Journal “Money Rates” listing under the caption “London Interbank Offered Rates” for a one month period (or, if no such rate is published therein for any reason, then the Published Rate shall be the eurodollar rate for a one month period as published in another publication determined by the Bank); provided, however, that if such day is not a Business Day, the Published Rate for such day shall be the Published Rate on the immediately preceding Business Day.

Qualified Bank: A bank or trust company organized under the laws of the United States of America or any state thereof, having either (i) capital, surplus and undivided profits aggregating at least \$250,000,000 or (ii) total assets in excess of \$1,000,000,000 and whose long-term certificates of deposit are rated “AA” or better by Standard and Poor’s Rating Group, a division of McGraw Hill, Inc. or “Aa” or better by Moody’s Investors Service, Inc.

Regulation T, U and X: Regulation T, Regulation U and Regulation X promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. Part 220 et seq., Part 221 et seq., and Part 224 et seq., respectively), as such regulations are now in effect and as may hereafter be amended.

Reimbursement Agreement: Any Reimbursement Agreement relating to a Letter of Credit issued by the Bank for the account of the Borrower or an Affiliate pursuant to which the Borrower agrees to reimburse the Bank for any draw against such Letter of Credit.

Reportable Event: A “reportable event” described in Section 4043(b) of ERISA and in 29 C.F.R. Part 2615.

Revolving Credit Commitment: The obligation of the Bank to make available to the Borrower an amount which, when added to the aggregate Stated Amounts of all Letters of Credit, plus any Unreimbursed L/C Draws on Letters of Credit which have not yet been converted to Revolving Credit Loans, does not exceed \$15,000,000.00.

Revolving Credit Loan: An individual borrowing under the Revolving Credit Commitment; and the term “Revolving Credit Loans” refers to all such borrowings under the Revolving Credit Commitment.

Revolving Credit Note: The Revolving Credit Note, in substantially the form of Exhibit “A” duly executed by the Borrower and delivered to the Bank, together with all extensions, renewals, amendments, substitutions and replacements thereto and thereof.

Revolving Credit Termination Date: June 30, 2012, as such date may be extended upon written consent of the Bank which consent is within the sole discretion of the Bank.

SEC: The Securities and Exchange Commission and any entity succeeding to its functions.

Section 20 Subsidiary: The Subsidiary of the bank holding company controlling the Bank, which Subsidiary has been granted authority by the Federal Reserve Board to underwrite and deal in certain Ineligible Securities.

**Solvent:** As to any Person, the condition which exists when such Person (i) owns assets whose value (both at fair market value and present fair saleable value) is, on the date of determination, greater than the amount of such Person's liabilities (including without limitation contingent and unliquidated liabilities), (ii) is able to pay all of its Indebtedness as such Indebtedness matures and (iii) has capital sufficient to carry on its business and transactions and all business and transactions in which it is about to engage.

**Stated Amount:** As to any Letter of Credit, the lower of (i) the face amount thereof or (ii) the remaining available undrawn amount thereof (regardless of whether any conditions for drawing could then be met).

**Subordination Agreement:** A Subordination Agreement substantially in the form of Exhibit "E" together with all extensions, renewals, amendments, substitutions and replacements thereto and thereof.

**Subordinated Indebtedness:** Indebtedness subordinated to the Obligations in a manner satisfactory to the Bank, including without limitation as set forth in any Subordination Agreement.

**Subsidiary:** (i) Any corporation or trust of which 50% or more (by number of shares or number of votes) of the outstanding capital stock or shares of beneficial interest normally entitled to vote for the election of one or more directors or trustees (regardless of any contingency which does or may suspend or dilute the voting rights) is at such time owned directly or indirectly by another Person or one or more of such other Person's subsidiaries, (ii) any partnership of which such other Person is a general partner or of which 50% or more of the partnership interests is at the time directly or indirectly owned by such other Person or one or more of such other Person's Subsidiaries, (iii) any limited liability company of which such Person is a member or of which 50% or more of the limited liability company interests is at the time directly or indirectly owned by such other Person or one or more of such other Person's Subsidiaries or (iv) any corporation, trust, partnership, limited liability company or other entity which is controlled or capable of being controlled by such other Person or one or more of such other Person's Subsidiaries.

**Tax or Taxes:** All taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments, royalties, duties, deductions, compulsory loans or similar charges in the nature of a tax, including PBGC, any state or provincial pension plan contributions, employment insurance payments and workers compensation premiums, together with any installments, and any interest, fines and penalties, imposed by any Governmental Authority, whether disputed or not.

**Termination Event:** (i) A Reportable Event with respect to a Plan or an event described in Section 4062(e) of ERISA with respect to a Plan, (ii) the withdrawal of the Borrower or any ERISA Affiliate from a Plan during a Plan year in which the Borrower or such ERISA Affiliate was a "substantial employer", as such term is defined in Section 4001(a)(2) of ERISA, (iii) the incurrence of liability by the Borrower or such ERISA Affiliate under Section 4064 of ERISA upon the termination of a Plan, (iv) the distribution of a notice of intent to terminate a Plan pursuant to Section 4041(c) of ERISA or the treatment of a Plan amendment as a termination under Section 4041 of ERISA, (v) the institution of proceedings to terminate a Plan by the PBGC under Section 4042 of ERISA, or (vi) any other event or condition which might reasonably constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan.

**Term Loan:** The Term Loan described in Section 2.2 hereof.

**Term Loan Commitment:** The obligation of the Bank to make available to the Borrower, pursuant to the terms hereof, the Term Loan.

**Term Loan Maturity Date:** February 28, 2014.

**Term Note:** The Term Note in substantially the form of Exhibit "B" duly executed by the Borrower and delivered to the Bank, together with all extensions, renewals, amendments, substitutions and replacements thereto and thereof.

**Trading with the Enemy Act:** This term shall mean the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any enabling legislation or executive order relating thereto.

**Unfunded Benefit Liabilities:** With respect to any Plan, the amounts described in Section 4001(a)(18) of ERISA.

**Uniform Commercial Code:** The Uniform Commercial Code as enacted in the Commonwealth of Pennsylvania, as amended from time to time.

**Unreimbursed L/C Draw:** Such sum defined in Section 2.11e hereof.

USWA Agreement: Each of the several Collective Bargaining Agreements between the Borrower and the United Steelworkers of America and all appendices in effect as of the Closing Date.

Withdrawal Liability: “Withdrawal liability” as defined by the provisions of Part 1 of Subtitle E to Title IV of ERISA.

Working Cash Agreements: This Agreement and the Working Cash Sweep Agreement.

Working Cash Sweep Agreement: The Working Cash®, Line of Credit, Investment Sweep Rider dated as of February 27, 2009, by and between the Borrower as the Customer and the Bank and all extensions, renewals, amendments, substitutions and replacements thereto and thereof.

**1.2 Other Definitional Provisions.** (i) Except as otherwise specified herein, all references in any Loan Document (A) to any Person shall be deemed to include such Person’s successors and assigns, (B) to any applicable law or Governmental Rule defined or referred to herein shall be deemed references to such applicable law or Governmental Rule as the same may have been or may be amended, supplemented or replaced from time to time and (C) to any Loan Document defined or referred to herein shall be deemed references to such Loan Document (and, in the case of the Note or other instrument, any instrument issued in substitution therefor) as the terms thereof may have been or may be amended, supplemented, waived or otherwise modified from time to time.

(ii) When used in any Loan Document, the words “herein”, “hereof” and “hereunder” and words of similar import shall refer to such Loan Document as a whole and not to any particular provision of such Loan Document, and the words “Article”, “Section”, “Subsection”, “Schedule”, “Exhibit” and “Annex” shall refer to Articles, Sections and Subsections of, and Schedules, Exhibits and Annexes to, such Loan Document unless otherwise specified.

(iii) Whenever the context so requires, in all Loan Documents the use of or reference to any gender includes the masculine, feminine, and neuter genders, and all terms used in the singular shall have comparable meanings when used in the plural and vice versa.

(iv) All accounting terms used in any Loan Document which are not specifically defined therein shall be construed in accordance with GAAP consistently applied, except as otherwise expressly stated therein.

## **ARTICLE 2. THE LOANS**

### **2.1 Revolving Credit Commitment.**

**2.1a Revolving Credit Loans.** The Bank agrees, subject to the terms and conditions hereof and relying upon the representations and warranties herein set forth, that the Borrower shall have the right to borrow, repay and reborrow, from the date hereof until the Revolving Credit Termination Date, an aggregate principal amount which, together with the aggregate Stated Amounts of all outstanding Letters of Credit, plus any Unreimbursed L/C Draws thereunder which have not been converted to Revolving Credit Loans, shall not exceed \$15,000,000 in the aggregate at any one time outstanding.

**2.1b Voluntary Reductions of Revolving Credit Commitment.** Upon at least ten Business Days’ prior written notice to the Bank, the Borrower may from time to time permanently reduce the Revolving Credit Commitment, and, to the extent of such reduction, the portion of the Revolving Credit Commitment shall no longer be available for borrowing. Simultaneously with any such voluntary permanent reduction, the Borrower shall make a payment of the outstanding Revolving Credit Loans equal to the excess, if any, of (A) the Outstanding Revolving Credit Amount over (B) the Revolving Credit Commitment, as so reduced. Each such reduction shall be in a minimum principal amount of \$500,000 or, if in excess of \$500,000, in integral multiples of \$250,000. Notice of a reduction, once given, shall be irrevocable. All voluntary prepayments shall be accompanied by all accrued and unpaid interest thereon, and all amounts due pursuant to Section 2.4, if any.

**2.1c Advance Procedures.** In the event that the assets transferred into the Parent Account from the Investment under the Working Cash Sweep Agreement are insufficient to cover the Credit Amount, the Bank shall on behalf of the Borrower advance an amount equal to the lesser of (i) the remaining amount of the Credit Amount or (ii) the remaining availability under the Revolving Credit Commitment.

**2.1d Payment Terms.** Any Excess Funds in the Parent Account shall, to the extent available at the end of any Business Day, be automatically applied to the repayment of the outstanding balance of the Revolving Credit Loans. In addition, the outstanding principal balance of the Revolving Credit Loans and any accrued and unpaid interest thereon shall be due and payable on the Revolving Credit Termination Date. If any payment hereunder shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing interest with such payment. Borrower hereby authorizes the Bank to charge the Parent Account or any deposit account maintained by the Borrower, individually or jointly with others with the Bank for any payment when due hereunder. Payments received will be applied to charges, fees, expenses, accrued interest and principal in any order the Bank may choose in its sole discretion.



**2.1e Revolving Credit Note.** The obligation of the Borrower to repay on or before the Revolving Credit Termination Date the aggregate unpaid principal amount of all Revolving Credit Loans shall be evidenced by the Revolving Credit Note substantially in the form of Exhibit "A" attached hereto, executed by the Borrower and delivered to the Bank. Borrowing Tranches, Interest Rate Options, the rate of interest accruing on Revolving Credit Loans and the terms of payment of such accrued interest with respect to Revolving Credit Loans shall be governed by the terms of Working Cash Sweep Agreement so long as the Working Cash Sweep Agreement has not been terminated.

**2.1f Termination of Working Cash Sweep Agreement.** The Working Cash Sweep Agreement may be terminated by the Borrower or the Bank on thirty (30) day's prior written notice from the Person terminating the Working Cash Sweep Agreement to the other party thereto. During such thirty (30) day period the Bank and the Borrower shall attempt to agree on an alternative mechanism for funding Revolving Credit Loans under this Agreement. Failure of the Borrower and the Bank to agree on an alternative funding mechanism shall constitute an Event of Default hereunder at the end of such thirty (30) day period.

## **2.2 Term Loan Facility.**

**2.2a Term Loan Commitment.** On the date hereof, the Bank extends to the Borrower a term loan facility of \$12,000,000. Subject to the terms hereof and relying on the representations and warranties herein set forth, the Borrower shall have the right to borrow the Term Loan on the Business Day which is three (3) Business Days after the Closing Date in the principal amount of \$12,000,000. On the Business Day which is three (3) Business Days after the Closing Date, the Bank shall advance the Term Loan in immediately available funds (i) to the Borrower by deposit of such funds into the demand deposit account of the Borrower maintained with the Bank or (ii) at the direction of the Borrower pursuant to such written instructions of the Borrower delivered in writing to the Bank on the Closing Date. The parties hereto acknowledge and agree that only one advance of the full amount of the Term Loans shall be made pursuant to this Section 2.2a on the Business Day which is three (3) Business Days after the Closing Date.

**2.2b Request for Borrowing Tranches Applicable to the Term Loan.** Each request for a Borrowing Tranche applicable to the Term Loan on the date of the advance of the Term Loan pursuant to Section 2.2a hereof or a conversion of an existing Interest Rate Option applicable to the Term Loan shall be made to the Bank orally or in writing, by an Authorized Officer, (i) by 10:00 A.M. (Pittsburgh, Pennsylvania time) on the date of the advance of the Term Loan pursuant to Section 2.2a hereof or on the Business Day of the proposed conversion to bear interest at the Base Rate Option and (ii) by 12:00 noon (Pittsburgh, Pennsylvania time) at least two Business Days prior to the date or the date of the advance of the Term Loan pursuant to Section 2.2a hereof or the conversion of any portion of the Term Loan to bear interest at the LIBOR Rate Option. Each request shall specify the date of the advance of the Term Loan pursuant to Section 2.2a hereof or the date on which such conversion of an existing Interest Rate Option is to be made, the amount thereof and, if applicable, the LIBOR Rate Interest Period therefor. Any oral request for a conversion of an existing Interest Rate Option shall be followed immediately by the Borrower's written request therefore. A request from the Borrower pursuant to this Section 2.2b, with respect to the Term Loan or any portion thereof which is to bear interest at the LIBOR Rate Option, shall irrevocably commit the Borrower to accept such LIBOR Rate Loan on the date specified in such request.

**2.2c Term Note.** The obligation of the Borrower to repay on or before the Term Loan Maturity Date, the aggregate unpaid principal amount of the Term Loan shall be evidenced by the Term Note substantially in the form of Exhibit "B" hereto, which shall be executed and delivered to the Bank on the Closing Date. Subject to the terms of Section 7.2 hereof, the Bank shall disburse the Term Loan to the Borrower on the Business Day which is three (3) Business Days after the Closing Date in accordance with the closing instructions executed by the Borrower and the Bank. Each selection or conversion of an Interest Rate Option applicable to the Term Loan shall be in the minimum principal amount of \$1,000,000 or if in excess of \$1,000,000 in integral multiples of \$500,000.

## **2.2d Principal Payments on the Term Loan.**

(i) **Scheduled Principal Payments.** Principal of the Term Loan shall be repaid in sixteen (16) consecutive quarterly installments beginning May 31, 2010, and continuing thereafter on the last day of each August, November, February and May to and including the Term Loan Maturity Date. Each of the first eight quarterly principal installments will be in an amount equal to \$600,000; and each of the ninth through the fifteenth quarterly principal installments will be in an amount equal to \$900,000. The final quarterly principal installment due on February 28, 2014, shall be in an amount equal to the unpaid principal balance of the Term Loan plus all accrued and unpaid interest thereon.

(ii) **Voluntary Prepayments.** The Borrower, subject to the terms hereof, shall have the right, at its option, to prepay the Term Loan in whole at any time or in part from time to time. Each partial voluntary prepayment of the Term Loan shall be in the minimum amount of \$1,000,000 or, if in excess of \$1,000,000, in integral multiples of \$500,000. The Borrower shall give the Bank not less than two (2) Business Days' prior written notice of each prepayment specifying the aggregate principal amount to be prepaid and the date of prepayment. Notice of prepayment having been given as aforesaid, the principal amount specified in such notice shall be due and payable on the prepayment date.

(iii) Mandatory Principal Prepayments. In addition to the payments required pursuant to Subsection 2.2d(i) above, the Borrower shall make the following prepayments:

(A) Asset Sales. The Borrower shall pay to the Bank, as a mandatory prepayment of principal on the Term Loan, the Net Cash Proceeds of any disposition of assets permitted by items (ii) and (iii) of Section 6.7; provided, however no such mandatory prepayment of such Net Cash Proceeds need be made if (I) the Net Cash Proceeds do not exceed in the aggregate \$5,000,000 during the term hereof and (II) such Net Cash Proceeds aggregating not more than \$10,000,000 are used within one hundred and eighty days of receipt to acquire other Equipment in which the Bank is granted a first and prior Encumbrance.

(B) Casualty. The Borrower shall pay to the Bank, as a mandatory prepayment of principal on the Term Loan, the Net Cash Proceeds of any casualty payment received from an insurance company or eminent domain proceeding; provided, however no such mandatory prepayment of such Net Cash Proceeds need be made if (I) the Net Cash Proceeds do not exceed in the aggregate \$5,000,000 during the term hereof and (II) such Net Cash Proceeds aggregating not more than \$5,000,000 are used within one hundred and eighty days of receipt to acquire other Equipment or real property for a plant site in which the Bank is granted a first and prior Encumbrance.

(iv) Application of Payment. Each prepayment of principal of the Term Loan, whether voluntary or mandatory shall be applied against the unpaid principal installments of the Term Loan in the inverse order of their normal maturity.

### **2.3 Interest.**

**2.3a Interest Rate.** During the term hereof, the Borrower, in accordance with the provisions of this Section 2.3, but subject to the terms and conditions of the Working Cash Sweep Agreement with respect to outstanding Revolving Credit Loans, shall have the option of electing from time to time one or more Interest Rate Options set forth below to be applied by the Bank to all or a portion of the Revolving Credit Loans and the Term Loan, as the case may be.

(i) Base Rate Option. Under the Base Rate Option, the Borrowing Tranche of the Revolving Credit Loans or the Term Loan bearing interest as such Option shall bear interest at the Base Rate plus the Applicable Margin for the applicable Loan.

(ii) LIBOR Rate Option. Under the LIBOR Rate Option, the Borrowing Tranches of the Revolving Credit Loans or the Term Loan bearing interest at such Option shall bear interest at a rate per annum equal to the sum of the LIBOR Rate plus the Applicable Margin for the applicable Loan.

### **2.3b Adjustments to Interest Rates.**

(i) Changes in Applicable Margin. The Applicable Margin shall be adjusted as of the day that the Borrower's annual and quarterly financial statements, and Compliance Certificate are delivered to the Bank pursuant to Sections 5.2a, 5.2b and 5.2c hereof.

(ii) Changes in Prime Rate, Federal Funds Open Rate and Daily LIBOR Rate. The Base Rate shall be adjusted from time to time, without notice to the Borrower, as necessary to reflect any changes in the Prime Rate, the Federal Funds Open Rate or the Daily LIBOR Rate, as applicable, which adjustments shall be automatically effective on the day of any such change.

(iii) Changes in LIBOR Rate Reserve Percentage. The LIBOR Rate Option shall be adjusted from time to time, without notice to the Borrower, as necessary to reflect any changes in the LIBOR Rate Reserve Percentage, which adjustments shall be automatically effective on the day of such change.

(iv) Event of Default. Upon the occurrence of and during the continuance of an Event of Default, the outstanding principal amount of the Loans shall bear interest from the date of such occurrence at a rate per annum which is equal to 2% (200 basis points) in excess of the rate or rates which would then otherwise in effect pursuant to this Section 2.3 with respect to such Loans.

### **2.3c Interest Payment Dates.**

(i) Revolving Credit Interest Payment Dates. Interest on the outstanding Revolving Credit Loans bearing interest under the Base Rate Option will be due and payable on or about the last date of each month for the period just ended, with the first such

payment due on March 31, 2009. Interest on the outstanding Revolving Credit Loans bearing interest under the LIBOR Rate Option shall be payable on the last day of the relevant LIBOR Rate Interest Period; provided that for LIBOR Rate Interest Periods in excess of three months, interest shall also be payable on the 90<sup>th</sup> day of such LIBOR Rate Interest Period, on any 180<sup>th</sup> or 270<sup>th</sup> day of such LIBOR Rate Interest Period and on the last day of such LIBOR Rate Interest Period. All interest will be charged to the Parent Account or another account created by the Bank to implement the Working Cash Agreements. In the event that there are insufficient available balances in the Parent Account or such other account to pay interest, the Bank will advance funds on behalf of the Borrower as provided by Subsection 2.1c hereof to the extent the Borrower has availability under the Revolving Credit Commitment. Such additional interest shall be due and payable within ten (10) days. All accrued and unpaid interest on the Revolving Credit Loan shall be due and payable on the Revolving Credit Termination Date.

(ii) **Term Loan Interest Payment Dates.** Interest due on the outstanding Term Loan bearing interest under the Base Rate Option shall be payable monthly in arrears on the last day of each month for the period just ended, with the first such payment due on March 31, 2009. Interest due on each outstanding Borrowing Tranche of the Term Loan bearing interest under the LIBOR Rate Option shall be payable on the last day of the relevant LIBOR Rate Interest Period; provided that for LIBOR Rate Interest Periods in excess of three months, interest shall also be payable on the 90<sup>th</sup> day of such LIBOR Rate Interest Period, on any 180<sup>th</sup> or 270<sup>th</sup> day of such LIBOR Rate Interest Period and on the last day of such LIBOR Rate Interest Period. All accrued and unpaid interest on the Term Loan shall be due and payable on the Term Loan Maturity Date.

(iii) **Payments After Maturity.** After any maturity of any Note or the Obligations, whether on a scheduled maturity date, by acceleration or otherwise, all accrued and unpaid interest shall be due and payable on demand until all amounts due hereunder are paid in full.

**2.3d Method of Calculation.** The interest rate shall be calculated on the basis of the actual number of days elapsed, using a year of 360 days. Interest for any period shall be calculated from and including the first day thereof to but not including the last day thereof.

**2.3e Interest Rate Option Elections, Renewals and Conversions.** Subject to the remaining provisions of this Agreement, the Borrower shall have the option to elect to have all or any Borrowing Tranches bear interest at either of the Interest Rate Options and shall have the right to renew elections of Interest Rate Options and convert Borrowing Tranches to the other Interest Rate Option. Notice of the Borrower's election shall be made in accordance with Section 2.2b. Elections of, conversions to or renewals of the Base Rate Option shall continue in effect until converted to the LIBOR Rate Option. Elections of, conversions to or renewals of the LIBOR Rate Option shall expire as to each such LIBOR Rate Option at the expiration of the applicable LIBOR Rate Interest Period. Any Borrowing Tranches outstanding for which no elections have been made shall bear interest under the Base Rate Option.

**2.3f Limitation on Election of LIBOR Rate Options.** Each election of the LIBOR Rate Option or the prepayment of all or any LIBOR Rate Loans shall be in the minimum principal amount of \$1,000,000 or, if in excess of \$1,000,000, in integral multiples of \$500,000. At no time during the term hereof may there be more than a total of six (6) separate Borrowing Tranches in effect, no more than four (4) of which may bear interest at the LIBOR Rate Option. Upon the occurrence and during the continuance of an Event of Default, the Borrower's right to elect, renew or convert to LIBOR Rate Loans shall be suspended.

**2.3g Special Provisions Relating to LIBOR Rate Option.**

(i) **LIBOR Rate Unascertainable.** In the event that on any date on which a LIBOR Rate would otherwise be set the Bank shall have determined in good faith (which determination shall be final and conclusive) that, by reason of circumstances affecting the London interbank market, adequate and reasonable means do not exist for ascertaining the LIBOR Rate, the Bank shall give prompt notice of such determination to the Borrower, and until the Bank notifies the Borrower that the circumstances giving rise to such determination no longer exist, the right of the Borrower to borrow under, renew or convert to the LIBOR Rate Option shall be treated as a request to borrow under, renew or convert to the Base Rate Option.

(ii) **Illegality of Offering LIBOR Rate.** If the Bank shall determine in good faith, which determination shall be final and conclusive, that compliance by the Bank with any applicable Governmental Rule (whether or not having the force of law), or the interpretation or application thereof by any Governmental Authority has made it unlawful for the Bank to make or maintain LIBOR Rate Loans, the Bank shall give notice of such determination to the Borrower. Notwithstanding any provision of this Agreement to the contrary, unless and until the Bank shall give notice to the Borrower that the circumstances giving rise to such determination no longer apply:

(A) with respect to any LIBOR Rate Interest Periods thereafter commencing, interest on the corresponding LIBOR Rate Loans shall be computed and payable under the Base Rate Option; and

(B) on such date, if any, as shall be required by law, any LIBOR Rate Loans then outstanding shall be automatically renewed at the Base Rate Option; and the Borrower shall pay to the Bank the accrued and unpaid interest on such LIBOR Rate Loans to (but not including) such renewal date. The Borrower shall pay the Bank any additional amounts reasonably necessary to compensate the Bank for any out-of-pocket costs incurred by the Bank as a result of any renewal pursuant to item (B) above on a day other than the last day of the relevant LIBOR Rate Interest Period, including, but not limited to, any interest or fees payable by the Bank to lenders of funds obtained by it to loan or maintain the Loans so converted. The Bank shall furnish to the Borrower a certificate showing the calculation of the amount necessary to compensate the Bank for such costs (which certificate, in the absence of manifest error, shall be conclusive), and the Borrower shall pay such amount to the Bank, as additional consideration hereunder, within ten (10) days of the Borrower's receipt of such certificate.

**(iii) Inability to Offer LIBOR Rate.** In the event that the Bank shall determine, in its sole discretion, that it is unable to obtain deposits in the London interbank market in sufficient amounts and with maturities related to the LIBOR Rate Loans which

would enable the Bank to fund such LIBOR Rate Loans, then the Bank shall immediately notify the Borrower that the right of the Borrower to borrow under, convert to or renew the LIBOR Rate Option shall be suspended. Following notification of the suspension of the LIBOR Rate Option, the Borrower agrees to negotiate with the Bank for a modified LIBOR Rate which will allow the Bank to realize its anticipated and bargained-for yield. In the event that the Borrower and the Bank cannot agree on a modified LIBOR Rate, any notice of borrowing under, conversion to or renewal of the LIBOR Rate Option which was to become effective during the period of suspension shall be treated as a request to borrow under, convert to or renew the Base Rate Option with respect to the principal amount specified therein.

**(iv) Indemnity.** In addition to the other provisions of this Section 2.3g, the Borrower hereby agrees to indemnify the Bank against any loss or expense which the Bank may sustain or incur as a consequence of any default by the Borrower in failing to make any borrowing, conversion or renewal hereunder to bear interest at the LIBOR Rate Option on the scheduled date, in failing to make when due (whether by declaration, acceleration or otherwise) any payment of any LIBOR Rate Loan or in making any payment or prepayment of any LIBOR Rate Loan or any part thereof on any day other than the last day of the relevant LIBOR Rate Interest Period, including but not limited to any loss of profit, premium or penalty incurred by the Bank in respect of funds borrowed by it for the purpose of making or maintaining any LIBOR Rate Loan as determined in good faith by the Bank in the exercise of its sole but reasonable discretion. The Bank shall furnish to the Borrower a certificate showing the calculation of the amount of any such loss or expense (which certificate, absent manifest error, shall be conclusive), and the Borrower shall pay such amount to the affected Bank within ten days of the Borrower's receipt of such certificate.

#### **2.4 Yield Protection; Indemnity.**

**2.4a Yield Protection.** If any Governmental Rule or the interpretation or application thereof by any court or any Governmental Authority charged with the administration thereof, or the compliance with any guideline or request from any central bank or other Governmental Authority, whether or not having the force of law:

(i) subjects the Bank to any tax, levy, impost, charge, fee, duty, deduction or withholding of any kind hereunder (other than any tax imposed or based upon the income of the Bank and payable to any Governmental Authority or taxing authority of the United States of America or any state thereof) or changes the basis of taxation of the Bank with respect to payments by the Borrower of principal, interest or other amounts due from the Borrower hereunder (other than any change which affects, and to the extent that it affects, the taxation by the United States of America or any state thereof of the total net income of the Bank), or

(ii) imposes, modifies or deems applicable any reserve, special deposit, special assessment or similar requirements against assets held by, deposits with or for the account of or credit extended by the Bank, or

(iii) imposes upon the Bank any other condition with respect to this Agreement,

and the result of any of the foregoing is to increase the cost to the Bank, reduce the income receivable by the Bank, reduce the rate of return on the Bank's capital or impose any expense upon the Bank by an amount which the Bank in its sole but reasonable discretion deems to be material, the Bank shall from time to time notify the Borrower of the amount determined by the Bank (which determination, absent manifest error, shall be conclusive) to be reasonably necessary to compensate the Bank (on an after-tax basis) for such increase in cost, reduction in income, reduction in rate of return or additional expense, setting forth the calculations therefor, and the Borrower shall pay such amount to the Bank, as additional consideration hereunder, within 10 days of the Borrower's receipt of such notice.

**2.4b Method of Calculation.** In determining the amount due the Bank hereunder by reason of the application of this Section 2.4, the Bank may use any reasonable averaging or attribution method; provided, however, that the Bank must use reasonable efforts to minimize such losses and costs.

**2.5 Capital Adequacy.** If (i) any adoption of, change in or interpretation of any Governmental Rule, or (ii) compliance with any guideline, request or directive of any central bank or other Governmental Authority or quasi-Governmental Authority exercising control over banks or financial institutions generally, including but not limited to regulations set forth at 12 C.F.R. Part 3 (Appendix A), 12 C.F.R. Part 208 (Appendix A), 12 C.F.R. Part 225 (Appendix A) and 12 C.F.R. Part 325 (Appendix A) or any court requires that the commitments of the Bank hereunder be treated as an asset or otherwise be included for purposes of calculating the appropriate amount of capital to be maintained by the Bank or any corporation controlling the Bank (a "Capital Adequacy Event"), the result of which is to reduce the rate of return on the Bank's capital as a consequence of such commitments to a level below that which the Bank could have achieved but for such Capital Adequacy Event, taking into consideration the Bank's policies with respect to capital adequacy, by an amount which the Bank reasonably deems to be material, the Bank shall promptly deliver to the Borrower a statement of the amount necessary to compensate the Bank for the reduction in the rate of return on its capital attributable to such commitments (the "Capital Compensation Amount"). The Bank shall determine the Capital Compensation Amount in good faith, using reasonable attribution and averaging methods. The Bank shall from time to time notify the Borrower of the amount so determined setting forth the calculations therefor (which determination, absent manifest error, shall be conclusive). Such amount shall be due and payable by the Borrower to the Bank 10 Business Days after such notice is given.

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## **2.6 Payments.**

**2.6a Place and Manner of Payments.** All payments of principal, interest, fees, costs and other amounts due hereunder and under the other Loan Documents not credited to the Bank directly pursuant to the terms hereof or of the Working Cash Sweep Agreement shall be made by the Borrower to the Bank at the Bank's principal office at One PNC Plaza, Fifth Avenue and Wood Street, Pittsburgh, Pennsylvania 15222, Attention: Corporate Finance Group, not later than 12:00 noon (Eastern time) on the due date. All such payments with respect to the Loans shall be immediately good funds when delivered by the Borrower to the Bank.

**2.6b No Set-Off or Deductions.** Subject to the terms of Section 9.5c hereof any and all payments made by the Borrower hereunder shall be made to the Bank in full, without set-off or counterclaim and free and clear of and without deduction or withholding for, or on account of, any and all present and future Taxes other than Excluded Taxes. If the Borrower is required by law to deduct or withhold any Taxes from or in respect of any sum payable hereunder, (i) the sum payable shall be increased, as may be necessary, so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section) the Bank receives an amount equal to the sum that it would have received had no deductions or withholdings been made, (ii) the Borrower shall make the required deductions or withholdings, and (iii) the Borrower shall pay the full amount deducted or withheld to the relevant taxing authority in accordance with any applicable Governmental Rule. The Bank agrees either to repay or credit at Bank's discretion to the Borrower any refund or tax credit actually received by, or for the benefit of, the Bank for tax amounts paid by the Borrower pursuant to this Section.

**2.6c Tax Indemnity.** The Borrower shall indemnify the Bank for the full amount of any Taxes (other than Excluded Taxes) imposed by any jurisdiction on amounts payable by the Borrower under this Section paid or payable by the Bank and for any liability (including penalties, interest and reasonable expenses) arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally asserted, and for any Taxes (other than Excluded Taxes) levied or imposed with respect to any indemnity payment made under this Section. This indemnification shall be made within 30 days after the date the Bank makes written demand therefor. If such Taxes are not correctly or legally asserted, the Bank will reasonably cooperate with the Borrower at the Borrower's expense in contesting such assessment.

**2.6d Evidence of Payment.** Within 30 days after the date of any payment of Taxes withheld by the Borrower in respect of any payment by the Borrower to the Bank, the Borrower shall furnish to the Bank the original or a certified copy of a receipt issued by the relevant taxing authority evidencing payment by the Borrower to the taxing authority of any Taxes (other than Excluded Taxes) with respect to any payment payable to the Bank.

**2.6e Survival.** The obligations of the Borrower under this Section shall survive the termination of this Agreement and the payment of all amounts payable under this Agreement.

**2.7 Loan Account.** The Bank shall open and maintain on its books a Loan Account in the Borrower's name with respect to Loans made, repayments, prepayments, the computation and payment of interest and other amounts due and sums paid to the Bank hereunder and under the other Loan Documents. Such Loan Account shall be conclusive and binding on the Borrower as to the amount at any time due to the Bank from the Borrower except in the case of manifest error in computation.

## **2.8 Payment of Certain Fees.**

**2.8a Commitment Fee.** The Borrower shall pay to the Bank, on the last day of each March, June, September and December during the term of the Revolving Credit Commitment and on the Revolving Credit Termination Date, a Commitment Fee calculated on the basis of the actual number of days elapsed, using a year of 360 days, at a rate per annum equal to the Applicable Commitment Fee on the average daily (computed at the opening of business) unused amount of the Revolving Credit Commitment (i.e., the Revolving Credit Commitment less the Outstanding Revolving Credit Amount) for the Fiscal Quarter then ended. The first payment of the Commitment Fee under this Agreement shall be due on March 31, 2009, shall be for the period beginning on the Closing Date. The Commitment Fee shall no longer accrue with respect to portions of the Revolving Credit Commitment which became permanently unavailable to the Borrower as a result of permanent reductions to the Revolving Credit Commitment made pursuant to Section 2.1b.

**2.8b Closing Fee.** The Borrower shall pay the Closing Fee on the Closing Date.

**2.9 Payment From Accounts Maintained by Borrower.** In the event that any payment of principal, interest, the Commitment Fees, the Letter of Credit Fees, the Closing Fee and any other fee or expense or any other amount due the Bank under any of the Loan Documents is not paid when due, the Bank is hereby authorized to effect such payment by debiting the Parent Account or any deposit account of the Borrower now or in the future maintained with the Bank by the Borrower either individually or with another Person. This right of debiting accounts of the Borrower is in addition to any right of setoff accorded the Bank hereunder or by operation of law.

**2.10 Late Payment.** If any payment required to be made by the Borrower hereunder is not made on the due date thereof, the Borrower shall pay interest on the amount of such required payment at the Default Rate for any Borrowing Tranche bearing interest at the Base Rate Option (whether or not a Borrowing Tranche bearing interest).

**2.11 Letter of Credit Subfacility.**

**2.11a Letter of Credit Commitment.** At the request of the Borrower, the Bank will issue for the account of the Borrower, on the terms and conditions hereinafter set forth (including without limitation Article 7 hereof), one or more Letters of Credit; provided, however, no Letter of Credit shall have an expiry date later than fifteen (15) days prior to the Revolving Credit Termination Date; and provided, further, however, that in no event shall (i) the Stated Amount of the Letters of Credit issued pursuant to this Section 2.11 exceed, at any one time, \$2,000,000, or (ii) the sum of aggregate outstanding principal balance of the Revolving Credit Loans, the aggregate unpaid balance of outstanding Revolving Credit Loans, the aggregate unpaid balance of any Unreimbursed L/C Draws and the aggregate Stated Amount of the Letters of Credit issued by the Bank under this Section 2.11 exceed, at any one time, the aggregate Revolving Credit Commitment.

**2.11b Letter of Credit Charges.**

(i) The Borrower shall pay to the Bank a fee (the "Letter of Credit Fee") equal to a per annum rate of interest equal to the Applicable Margin for Revolving Credit Loans bearing interest at the LIBOR Rate Option, on the aggregate daily (computed at the opening of business and on the basis of a year of 360 days and actual days elapsed) Stated Amount of the outstanding Letters of Credit for the period in question. The Letter of Credit Fee shall be payable (A) quarterly in arrears on the last Business Day of each Fiscal Quarter occurring during the term of this Agreement, (B) on the Revolving Credit Termination Date or (C) upon acceleration of the Revolving Credit Note. Any issuance of an amendment to extend the stated expiration date of a Letter of Credit or an amendment to increase the Stated Amount of a Letter of Credit shall be treated as an issuance of a new Letter of Credit for purposes of calculation of the Letter of Credit Fee due and payable hereunder. After the occurrence of an Event of Default and during the continuation thereof, the rate at which the Letter of Credit Fee is calculated shall be increased by two hundred (200) basis points (2%) above the pre-default rate.

(ii) The Borrower shall also pay to the Bank for the Bank's own account the Bank's customary documentation fees payable with respect to the Letters of Credit as the Bank may generally charge from time to time. Without limitation, the foregoing shall include all charges and expenses paid or incurred by the Bank in connection with any Letter of Credit, including without limitation: (A) correspondents' charges, if any, (B) any and all reasonable out-of-pocket expenses and charges of the Bank in connection with the performance, administration, interpretation, collection and enforcement of this Agreement and any Letter of Credit, including all reasonable legal fees and expenses, and (C) any and all applicable reserve or similar requirements and any and all premiums, assessments, or levies imposed upon the Bank by any Governmental Authority.

(iii) If by reason of (A) any change in any Law or any change in the interpretation or application by any judicial or regulatory authority of any Law or (ii) compliance by the Bank with any direction, request or requirement (whether or not having the force of law) of any Governmental Authority:

(A) the Bank shall be subject to any tax, levy, charge or withholding of any nature or to any variation thereof or to any penalty with respect to the maintenance or fulfillment of its obligations under this Section 2.11, whether directly or by such being imposed on or suffered by the Bank;

(B) any reserve, deposit or similar requirement is or shall be applicable, imposed or modified in respect of the Letters of Credit; or

(C) there shall be imposed on the Bank any other condition regarding this Section 2.11 or the Letters of Credit;

and if the result of any of the foregoing is to directly or indirectly increase the cost to the Bank of issuing or maintaining any Letter of Credit, or to reduce the amount receivable in respect thereof by, the Bank, then and in any such case the Bank may, at any time after the additional cost is incurred or the amount receivable is reduced, notify the Borrower, and the Borrower shall pay on demand such amounts as the Bank may specify to be necessary to compensate the Bank for such additional cost or reduced receipt, together with interest on such amount from the date of the notice of such event which results in such increased cost or reduction in amount receivable until payment in full thereof at a rate equal at all times to the Base Rate. The determination by the Bank of any amount due pursuant to this Section 2.11b as set forth in a certificate setting forth the calculation thereof, shall, in the absence of manifest error, be final and conclusive and binding on all of the parties hereto.

**2.11c Change in Law.** In the event any restrictions are imposed upon the Bank by any Law of any Governmental Authority having jurisdiction over the banking activities of the Bank which would prevent the Bank from issuing the Letters of Credit or amending the Letters of Credit, the commitment of the Bank to issue the Letters of Credit or enter into any amendment with respect thereto shall be

immediately suspended. The Bank shall promptly notify the Borrower of the existence and nature of any restriction which would cause the suspension of the commitment of the Bank to issue the Letters of Credit or to enter into amendments with respect thereto. The Borrower will thereupon undertake reasonable efforts to obtain the cancellation of all outstanding Letters of Credit; provided, however, that the refusal of any beneficiary of a Letter of Credit to surrender such Letter of Credit will not be an Event of Default hereunder, provided that the Borrower shall undertake good faith efforts to obtain substitute letters of credit for the then existing and outstanding Letters of Credit. Nothing contained in this Section 2.11 shall be deemed a termination of the Revolving Credit Commitment and, in the event of a suspension of the commitment of the Bank to issue Letters of Credit as set forth above, the Borrower may continue to borrow under the Revolving Credit Commitment provided the requirements of Sections 7.1 and 7.2 are complied with.

**2.11d Procedures for Issuance of Letters of Credit.** When the Borrower desires the issuance of a Letter of Credit, the Borrower shall deliver a duly completed application and agreement for Letter of Credit to the Bank no later than 10:00 A.M. (Pittsburgh, Pennsylvania time) at least three (3) Business Days, or such shorter period as may be agreed to by the Bank, in advance of the proposed date of issuance. Upon satisfaction of the conditions set forth in Section 7.1 and, if applicable, Section 7.2, the Bank shall be obligated to issue the Letter of Credit. In determining whether to pay under a Letter of Credit, the Bank shall be responsible only to determine that the documents and certificates required to be delivered under the Letter of Credit have been delivered and that they comply on their face with the requirements of the Letter of Credit.

**2.11e Reimbursement of Draws.** In the event of any request for drawing under a Letter of Credit by the beneficiary thereof, the Bank shall immediately notify the Borrower, and the Borrower shall reimburse, or cause the reimbursement of, the Bank on demand as set forth in the applicable application and agreement for Letter of Credit in an amount in same day funds equal to the amount of such drawing; provided, however, that anything contained in this Agreement to the contrary notwithstanding, unless the Borrower shall have notified the Bank prior to such time that the Borrower intends to reimburse the Bank for all or a portion of the amount of such drawing with funds other than the proceeds of Revolving Credit Loans, the Borrower shall be deemed to have given a loan request to the Bank requesting the Bank to make Revolving Credit Loans on the first Business Day immediately following the date on which such drawing is honored in an aggregate amount equal to the excess of the amount of such drawing over the amount received by the Bank from such other funds in reimbursement thereof (the "Unreimbursed L/C Draw"), plus accrued interest on such amount at the rate set forth in Section 2.3a(i). Any such Revolving Credit Loan shall be deemed advanced to the Borrower. The proceeds of any such Revolving Credit Loans shall be applied directly by the Bank to reimburse the Bank for the Unreimbursed L/C Draw plus accrued interest on such amount. The foregoing shall not limit or impair the obligation of the Borrower to reimburse the Bank on demand.

**2.11f Reimbursement Obligations Absolute.** The obligations of the Borrower under this Agreement to reimburse the Bank for all drawings upon the Letters of Credit shall be absolute, unconditional and irrevocable, and shall not be subject to any right of set-off or counterclaim and shall be paid or performed strictly in accordance with the terms of this Agreement, under all circumstances whatsoever, including the following circumstances:

- (i) any lack of validity or enforceability of this Agreement, any Letter of Credit or any of the Loan Documents;
- (ii) any amendment or waiver of any provision of all or any of the Loan Documents;
- (iii) the existence of any claim, set-off, defense or other rights which the Borrower may have at any time against any beneficiary or any transferee of any Letter of Credit (or any Persons for whom any such beneficiary or any such transferee may be acting), the Bank (other than the defense of payment to the Bank in accordance with the terms of this Agreement) or any other Person, whether in connection with this Agreement, the Loan Documents or any transaction contemplated hereby or thereby or any unrelated transaction;
- (iv) any draft, demand, certificate, statement or document presented under any Letter of Credit, appearing on its face to be valid and sufficient, but proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever;
- (v) payment by the Bank under any Letter of Credit against presentation of any document which does not comply with the terms of the Letter of Credit, provided that such payment shall not have constituted gross negligence or willful misconduct of the Bank;
- (vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, not resulting from gross negligence or willful misconduct of the Bank; and
- (vii) the fact that a Default or Event of Default shall have occurred and be continuing.

**2.11g Construed with Applications.** This Agreement is intended to supplement each application and agreement for Letter of Credit executed by the Borrower and delivered to the Bank. Whenever possible this Agreement is to be construed as consistent with each application and agreement for Letter of Credit but, to the extent that the provisions of this Agreement and each application and agreement for Letter of Credit conflict, the terms of this Agreement shall control.



**2.11h Letter of Credit Indemnity.** In addition to amounts payable as elsewhere provided in this Section 2.11, the Borrower hereby agrees to protect, indemnify, pay and save the Bank harmless from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable attorneys' fees) which the Bank may incur or be subject to as a consequence, direct or indirect, of (i) the issuance of the Letters of Credit or any amendment thereto, other than as a result of the gross negligence or willful misconduct of the Bank as determined by a court of competent jurisdiction, (ii) the failure of the Bank to honor a draw under any Letter of Credit if the Bank in good faith and upon advice of counsel believes that it is prohibited from making such payment as a result of any requirement of Law or of any Governmental Authority, or (iii) any material breach by the Borrower of any representation, warranty, covenant, term or condition in, or the occurrence of any default under, any document related to the issuance or any amendment of the Letters of Credit. If any proceeding shall be brought or threatened against the Bank by reason of or in connection with any event described in clauses (i) through (iii) above, the Bank shall promptly notify the Borrower in writing, and the Borrower shall assume the defense thereof, including the employment of counsel and payment of all costs of litigation. Notwithstanding the preceding sentence, the Bank shall have the right to employ their own counsel and to determine its own defense of such action in any such case, but the fees and expenses of such counsel shall be at the expense of the Bank unless (x) the employment of such counsel shall have been authorized in writing by the Borrower, (y) the Borrower, after the aforementioned notice of the action, shall not have employed counsel to have charge of such defense or (z) if the position of the Borrower is adverse or contrary to the position advocated by the Bank, as the case may be. In each case described in clauses (x), (y) and (z) immediately above the reasonable fees and expenses of counsel for the Bank, as the case may be shall be borne by the Borrower. The Borrower shall not be liable for any settlement of any such action affected without its consent.

**2.11i Payments without Inquiry.** The Bank is hereby expressly authorized and directed to honor any request for payment which is made under and in compliance with the terms of any Letter of Credit without regard to, and without any duty on the Bank's part to inquire into, the existence of any disputes or controversies between the Borrower, the beneficiary of any Letter of Credit or any other Person, or the respective rights, duties or liabilities of any of them or whether any facts or occurrences represented in any of the documents presented under any Letter of Credit are true or correct. Furthermore, the Borrower fully understands and agrees that the Bank's sole obligation to the Borrower shall be limited to honoring requests for payment made under and in compliance with the terms of any Letter of Credit, the application and agreement for Letter of Credit therefor and this Agreement and the Bank's obligation remains so limited even if the Bank may have assisted the Borrower in the preparation of the wording of any Letter of Credit or any documents required to be presented thereunder or that the Bank may otherwise be aware of the underlying transaction giving rise to any Letter of Credit and this Agreement.

**2.11j Limitations on Liability of Bank.** As between the Borrower and the Bank, the Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the beneficiaries of the Letters of Credit. In furtherance and not in limitation of the foregoing, the Bank shall not be responsible: (i) for the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for or the issuance or amendment of the Letters of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign the Letters of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) for failure of a beneficiary of a Letter of Credit to comply fully with conditions required in order to draw upon such Letter of Credit; (iv) for errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telecopy, telex or otherwise, whether or not they be in cipher; (v) for errors in interpretation of technical terms; (vi) for any loss or delay in the transmission or otherwise of any document required in order to make a draw under the Letters of Credit or of the proceeds thereof; (vii) for the misapplication by a beneficiary of any Letter of Credit of the proceeds of any drawing under such Letter of Credit; (viii) for any consequences arising from causes beyond the control of the Bank, including, without limitation, any Law; and (ix) for any other circumstances whatsoever in making or failing to make payment under a Letter of Credit; except that the Borrower shall have a claim against the Bank, and the Bank shall be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential, damages suffered by the Borrower by a court of competent jurisdiction to be the result of (i) the Bank's willful misconduct or gross negligence in determining whether documents presented under a Letter of Credit comply with the terms of the Letter of Credit, (ii) the Bank's willful misconduct or gross negligence in paying a draw under a Letter of Credit to any Person other than the beneficiary of such Letter of Credit or its lawful successor, representative or assign (or as otherwise directed in writing by the beneficiary of such Letter of Credit) or (iii) the Bank's willful failure to pay under a Letter of Credit after the presentation to it by the beneficiary of such Letter of Credit or its lawful successor, representative or assign of a sight draft and certificate or other documents strictly complying with the terms and conditions of such Letter of Credit, unless the Bank in good faith and upon advice of counsel believes that it is prohibited by law or other legal authority from making such payment. None of the above shall affect, impair, or prevent the vesting of any of the Bank's rights or powers hereunder.

**2.11k Reduction in Credit Rating of Bank.** Except for the Bank's obligations to issue Letters of Credit hereunder and its obligations under such Letters of Credit, the Bank shall have no liability to the Borrower from a reduction of the Bank's credit rating or any deterioration in its financial condition.

**2.111 Expenses.** The Borrower shall bear and pay all reasonable expenses of every kind (including all reasonable attorneys' fees) of the enforcement of any of the Bank's rights under this Agreement or the Letters of Credit, or of any claim or demand by the Bank against the Borrower, or of any actual or attempted sale, exchange, enforcement, collection, maintenance, retention, insurance, compromise, settlement, release, delivery on trust receipt, or other security agreement, or delivery of any such security, and of the receipt of proceeds thereof, and will repay to the Bank any such expenses incurred by the Bank.

**2.11m Good Faith Actions.** In furtherance and extension and not in limitation of the specific provisions hereinabove set forth, any action taken or omitted by the Bank under or in connection with the Letters of Credit or the related sight drafts or certificates or documents, if taken or omitted in good faith, shall not put the Bank under any resulting liability to the Borrower.

**2.11n Subrogation Rights of Bank.** Whenever appropriate to prevent unjust enrichment and to the end that the Borrower shall bear substantially all of the risks relative to any Letter of Credit and the underlying transactions, the Bank shall be subrogated (for purposes of defending against the Borrower's claims and proceeding against others to the extent of the Bank's liability to the Borrower) to the Borrower's rights against any Person who may be liable to the Borrower on any underlying transaction, to the rights of any holder in due course or Person with similar status against the Borrower, and to the rights of the beneficiary or its assignee or person with similar status against the Borrower.

**2.11o Governing Law.** Except and to the extent inconsistent with the specific provisions hereof, this Agreement, each Letter of Credit hereunder and all transactions in connection therewith shall be interpreted, construed and enforced according to: (i) the "Uniform Customs and Practice for Documentary Credits" (1993 Revision), International Chamber of Commerce Publication No. 500 and subsequent revisions thereof which shall supersede inconsistent provisions of applicable law to the extent not prohibited by applicable law and (ii) the laws of the Commonwealth of Pennsylvania, including, without limitation, the Uniform Commercial Code, and excluding conflict of laws rules.

### ARTICLE 3. SET-OFF AND SECURITY INTERESTS

**3.1 Set-Off.** To secure the repayment and performance of the Obligations, the Borrower hereby gives to the Bank and any Participant a lien and security interest upon and in any of the Borrower's property, credits, securities or Money which may at any time be delivered to, or be in the possession of, or owed by the Bank and any Participant in any capacity whatever, including the balance of any deposit account, maintained by the Borrower with the Bank or the Participant, as the case may be. The Borrower hereby authorizes the Bank and any Participant, at any time and from time to time upon the occurrence and during the continuance of an Event of Default, at the Bank's or the Participant's option, to apply, at the discretion of the Bank or the Participant, to the payment of the Obligations, any and all such property, credits, securities or Money now or hereafter in the hands of the Bank or the Participant or belonging or owed to the Borrower.

**3.2 Form of Subsidiary Guaranties.** As security for the payment and performance of all Obligations of the Borrower at any time owing to the Bank, the Borrower shall cause each of Dunkirk and Holdings to execute and deliver to the Bank a Guaranty Agreement. In addition, the Borrower shall cause each newly-created or acquired Subsidiary to execute and deliver a Guaranty Agreement to the Bank.

### ARTICLE 4. REPRESENTATIONS AND WARRANTIES

To induce the Bank to enter into this Agreement, to establish the commitments to lend and to make the Loans and the other extensions of credit herein provided for, the Borrower makes the following representations and warranties to the Bank:

**4.1 Existence.** The Borrower is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and the Borrower is duly qualified or licensed and in good standing as a foreign corporation authorized to do business in each jurisdiction where the nature of its activities or the ownership of its properties makes such qualification or licensing necessary. Each Subsidiary of the Borrower is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of their respective incorporation or organization and each Subsidiary of the Borrower is duly qualified or licensed and in good standing as a foreign corporation authorized to do business in each jurisdiction where the nature of its activities or the ownership of its properties makes such qualification or licensing necessary.

**4.2 Capitalization; Ownership; Title to Shares.** The authorized capital stock of the Borrower consists of 10,000,000 shares of common stock and 1,980,000 shares of preferred stock, of which, as of December 31, 2008, 6,732,284 shares of common stock were issued and outstanding and no shares of preferred stock were issued and outstanding. All of the issued and outstanding shares of capital stock of the Borrower are fully paid and nonassessable. There are no options, warrants or other rights outstanding to purchase any shares of the Borrower, nor are any securities of the Borrower convertible into or exchangeable for its capital stock, except as shown on Schedule 4.2.

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**4.3 Subsidiaries and Other Investments.** The Borrower has no Subsidiaries except Holdings and Dunkirk, and it has no other ownership interests in any other Person.

**4.4 Power and Authority.** The Borrower and each Subsidiary of the Borrower, has the lawful power to own or lease its properties and to engage in the business it now conducts or proposes to conduct. The Borrower is duly authorized to enter into, execute, deliver and perform all of the terms and provisions of this Agreement, the Notes and the other Loan Documents to which it is a party, to incur the Obligations and to perform its obligations under the Loan Documents to which it is a party. All necessary corporate action required to authorize the execution, delivery and performance of this Agreement, the Notes and the other Loan Documents has been properly taken by the Borrower.

**4.5 Validity and Binding Effect.** This Agreement has been, and each other Loan Document will be, duly executed and delivered by the Borrower. This Agreement and the other Loan Documents, when delivered by the Borrower pursuant to the provisions hereof, will constitute legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and except as such enforceability may be limited by the availability of equitable remedies.

**4.6 No Conflict.** The execution and delivery of this Agreement and the other Loan Documents by the Borrower and the consummation of the transactions herein or therein contemplated or compliance with the terms and provisions hereof or thereof by it will not conflict with, constitute a default under or result in any breach of (i) the terms and conditions of the Borrower's certificate of incorporation, by-laws, or other organizational documents, (ii) any Governmental Rule or (iii) any material agreement, instrument, order, writ, judgment, injunction or decree to which the Borrower is a party or by which it is bound or to which it is subject, or will result in the creation or enforcement of any Encumbrance whatsoever upon any property, whether now owned or hereafter acquired, of the Borrower, except for Permitted Encumbrances.

**4.7 Financial Matters.**

**4.7a Historical Financial Statements.** The Borrower has delivered to the Bank its audited financial statements for the Fiscal Year ended December 31, 2007, and its unaudited financial statements for Fiscal Year ended December 31, 2008. Such financial statements are complete and correct in all material respects, subject to ordinary and usual year-end adjustments, and fairly present the Consolidated financial condition of the Borrower in all material respects and the results of its operations as of the dates and for the periods referred to, and have been prepared in accordance with GAAP consistently applied throughout the periods involved. The Borrower and its consolidated Subsidiaries have no material liabilities, whether direct or indirect, fixed or contingent, and no liability for taxes, long-term leases or unusual forward or long-term commitments as of the date of such financial statements which are not reflected in such financial statements or in the notes thereto.

**4.7b Financial Projections.** The Borrower has delivered to the Bank financial projections of the Borrower and its Subsidiaries for the Fiscal Year ending December 31, 2009. Such projections set forth a reasonable range of possible results in light of the history of the business of the Borrower and its Subsidiaries, present and foreseeable conditions and the intentions of the Borrower's management. Such projections accurately reflect the liabilities of the Borrower upon consummation of the transactions contemplated hereby as of the Closing Date. No material events have occurred since the preparation of the projections which would cause the projections taken as a whole, not to be reasonably attainable.

**4.8 Material Adverse Change.** Since December 31, 2008, no Material Adverse Change has occurred.

**4.9 Solvency.** The Borrower is, and after giving effect to the transactions contemplated pursuant to this Agreement and the other Loan Documents will be, Solvent.

**4.10 Litigation.** There are no actions, suits, proceedings or investigations pending or, to the Borrower's knowledge, threatened against the business, operations, properties, prospects, profits or condition (financial or otherwise) of the Borrower or any Subsidiary of the Borrower at law or in equity, before any Governmental Authority, court or arbitrator which, individually or in the aggregate, if adversely determined, could reasonably be expected to be material or which purport to affect the rights and remedies of the Bank pursuant to this Agreement and the other Loan Documents or which purport to restrain or enjoin (either temporarily, preliminarily or permanently) the performance by either the Borrower or any Subsidiary of the Borrower of any action contemplated by any of the Loan Documents. All pending and, to the Borrower's knowledge, threatened actions, suits, proceedings and investigations affecting the Borrower and any Subsidiary of the Borrower are set forth on Schedule 4.10.

**4.11 Compliance with Laws.** Each of the Borrower and each Subsidiary of the Borrower has duly complied in all material respects with, and all of their respective properties, business operations and leaseholds are in compliance in all material respects with, the

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provisions of all Governmental Rules applicable to either Borrower or any Subsidiary of the Borrower, their respective properties and the conduct of their respective businesses. Neither the Borrower nor any Subsidiary of the Borrower is in material violation of any Governmental Rule.

**4.12 Labor Matters.** Except as described in Schedule 4.12, the Borrower is not a party to, and no Subsidiary of the Borrower a party to, any labor contract or collective bargaining agreement, and there are no strikes, work stoppages, material grievances, disputes or controversies with any union or any other organization of the employees of the Borrower, or any Subsidiary of the Borrower, or threats of strikes, work stoppages or any asserted pending demands for collective bargaining by any union or organization. Each collective bargaining agreement and labor contract listed on Schedule 4.12 is in full force and effect as of the date hereof. Neither the Borrower, nor any Subsidiary of the Borrower, has, within the two-year period preceding the date hereof, taken any action which would have constituted or resulted in a “plant closing” or “mass layoff” within the meaning of the Federal Worker Adjustment and Retraining Notification Act of 1988 or any similar applicable Federal, state or local law. The procedures by which the Borrower and each Subsidiary of the Borrower have hired or will hire their respective employees have complied and will comply in all respects with each collective bargaining agreement to which the Borrower or any Subsidiary of the Borrower is a party and all applicable Governmental Rules.

**4.13 Title to Properties.**

**4.13a Titles to Properties - Borrower.** (i) The Borrower has good and indefeasible title to, or valid leasehold interests in, all properties, real or personal, and assets purported to be owned or leased by the Borrower, and none of such properties and assets, including, without limitation any such property and assets in which the Bank has been granted a lien and security interest pursuant to the Loan Documents, is subject to any Encumbrance, except for Permitted Encumbrances in existence on the Closing Date. All real property of the Borrower owned in fee or leased by the Borrower as of the Closing Date is set forth on Schedule 1.1b attached hereto. Except as set forth on Schedule 4.13a, the Borrower has received all deeds, assignments, waivers, consents, non-disturbance and recognition or similar agreements, bills of sale and other documents and instruments, and has duly effected all recordings, filings and other actions necessary to establish, protect and perfect the Borrower’s right, title and interest in and to all such property.

(ii) The Borrower does not own or hold, and is not obligated under or a party to, any option, right of first refusal or other contractual right to purchase, acquire, sell, assign or dispose of any real estate owned or leased by the Borrower, except as set forth on Schedule 4.13a.

(iii) All permits, licenses and authorizations required to have been issued or appropriate to enable all real property owned or leased by the Borrower to be lawfully occupied and used for all of the purposes for which they are currently occupied and used have been lawfully issued and are in full force and effect, other than those which in the aggregate are not material.

(iv) The Borrower has not received any notice, or has any knowledge, of any pending, threatened or contemplated condemnation proceeding affecting any real property owned or leased by the Borrower or any part thereof except those which, in the aggregate, are not material.

(v) No portion of any real property owned or leased by the Borrower has suffered any material damage by fire or other casualty loss which has not heretofore been completely repaired and restored to its original condition.

**4.13b Titles To Properties - Subsidiaries.** (i) Each Subsidiary of the Borrower has good and indefeasible title to, or valid leasehold interests in, all properties, real or personal, and assets purported to be owned or leased by such Subsidiary, and none of such properties and assets, including, without limitation any such property and assets in which the Bank has been granted a lien and security interest pursuant to the Loan Documents, is subject to any Encumbrance, except for Permitted Encumbrances in existence on the Closing Date. All real property of the Subsidiaries of the Borrower owned in fee or leased by such Subsidiaries as of the Closing Date is set forth on Schedule 1.1b attached hereto. Except as set forth on Schedule 4.13b, each Subsidiary of the Borrower has received all deeds, assignments, waivers, consents, non-disturbance and recognition or similar agreements, bills of sale and other documents and instruments, and has duly effected all recordings, filings and other actions necessary to establish, protect and perfect such Subsidiary’s right, title and interest in and to all such property.

(ii) No Subsidiary of the Borrower owns or holds, and no Subsidiary of the Borrower is obligated under or a party to, any option, right of first refusal or other contractual right to purchase, acquire, sell, assign or dispose of any real estate owned or leased by a Subsidiary of the Borrower, except as set forth on Schedule 4.13b.

(iii) All permits, licenses and authorizations required to have been issued or appropriate to enable all real property owned or leased by a Subsidiary of the Borrower to be lawfully occupied and used for all of the purposes for which they are currently occupied and used have been lawfully issued and are in full force and effect, other than those which in the aggregate are not material.

(iv) No Subsidiary of the Borrower has received any notice, or has any knowledge, of any pending, threatened or contemplated condemnation proceeding affecting any real property owned or leased by a Subsidiary of the Borrower or any part thereof except those which, in the aggregate, are not material.

(v) No portion of any real property owned or leased by a Subsidiary of the Borrower has suffered any material damage by fire or other casualty loss which has not heretofore been completely repaired and restored to its original condition.

**4.14 Tax Returns and Payments.** Each of the Borrower and each Subsidiary of the Borrower has filed all Federal, state, local and other tax returns required by law to be filed. Each of the Borrower and each Subsidiary of the Borrower has paid all taxes, assessments and other governmental charges levied upon the Borrower or any Subsidiary of the Borrower or any of their respective properties, assets, income or franchises which are due and payable, other than (i) those presently payable without penalty or interest, (ii) those which are being contested in good faith by appropriate proceedings which are being diligently conducted and (iii) those which, if not paid, would not, in the aggregate, result in a Material Adverse Change and as to each of items (i), (ii) and (iii) the Borrower or the applicable Subsidiary has set aside on its books reserves for such taxes, assessments or other governmental charges as are determined to be adequate by application of GAAP consistently applied. The charges, accruals, and reserves on the books of the Borrower and its Subsidiaries in respect of Federal, state and local taxes for all fiscal periods to date are adequate, and the Borrower knows of no unpaid assessments for additional Federal, state, local or other taxes which are now due and payable for any such fiscal period or any basis therefor.

**4.15 Intellectual Property.** The Borrower and its Subsidiaries own or license all the material patents, patent applications, trademarks, trademark applications, permits, service marks, trade names, copyrights, copyright applications, licenses, franchises, authorizations and other intellectual property rights that are necessary for the operations of their respective businesses, without infringement upon or conflict with the rights of any other Person with respect thereto. To the best knowledge of the Borrower, no slogan or other advertising, device, product, process, method, substance, part or component or other material now employed, or now contemplated to be employed, by the Borrower or any of its Subsidiaries infringes upon or conflicts with any rights owned by any other Person, and no claim or litigation regarding any of the foregoing is pending or threatened. All of the material patents, trademarks, permits, service marks, trade names, copyrights, licenses, franchises and authorizations of the Borrower and its Subsidiaries are listed on Schedule 4.15.

**4.16 Insurance.** The Borrower currently maintains, and the Borrower has caused its Subsidiaries to maintain, insurance which meets or exceeds the requirements of Section 5.7 hereof and the applicable insurance requirements set forth in the other Loan Documents, and such insurance is provided by reputable and financially sound insurers and is of such types and at least in such amounts as are customarily carried by, and insures against such risks as are customarily insured against by similar businesses similarly situated and owning, leasing and operating similar properties to those owned, leased and operated by the Borrower and its Subsidiaries. All of such insurance policies are valid and in full force and effect. No notice has been given or claim made, and, to the Borrower's knowledge, no grounds exist to cancel or avoid any of such policies or to reduce the coverage provided thereby. All of the existing insurance coverage of the Borrower and its Subsidiaries is described on Schedule 4.16.

**4.17 Consents and Approvals.** No order, authorization, consent, license, validation or approval of, or notice to, filing, recording, or registration with any Governmental Authority, or the exemption by any such Governmental Authority, is required to authorize, or is required in connection with, (i) the execution, delivery and performance of any of the Loan Documents or (ii) the legality, binding effect or enforceability of any such Loan Document.

**4.18 No Defaults.** No event has occurred and is continuing and no condition exists which constitutes a Default or an Event of Default. No Loan Party is in violation of (i) any term or provision its certificate of incorporation, by-laws or other organizational documents, (ii) any material agreement or instrument to which it is a party or by which it or any of its properties may be bound or subject, or (iii) any material agreement or instrument evidencing any Indebtedness.

**4.19 Plans and Benefit Arrangements.** (i) All Plans and Benefit Arrangements maintained by the Borrower or any ERISA Affiliate for employees are set forth on Schedule 4.19. Neither the Borrower nor any ERISA Affiliate has made any promises of retirement or other benefits to employees or former employees (A) except as set forth in any Plan or Benefit Arrangement, (B) except for such promises under unfunded plans maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees, which in the aggregate are not material in amount and (C) except for any other promises which in the aggregate are not material in amount.

(ii) Each Plan and Benefit Arrangement has been maintained and administered in all material respects in compliance with ERISA and the Internal Revenue Code and all rules, orders and regulations issued thereunder.

(iii) Except as set forth on Schedule 4.19, the Internal Revenue Service has determined that each Plan and Benefit Arrangement which constitutes an employee pension benefit plan as defined in Section 3(2) of ERISA and which is intended to qualify under Section 401(a) of the Internal Revenue Code so qualifies under Section 401(a) of the Internal Revenue Code, and that

the trusts related thereto are exempt from tax under the provisions of Section 501(a) of the Internal Revenue Code. Nothing has occurred with respect to any such Plan or Benefit Arrangement or to the related trusts since the date of the most recent favorable determination letter issued by the Internal Revenue Service which has affected or may reasonably be expected to affect adversely such qualification or exemption.

(iv) The Borrower and each ERISA Affiliate have complied fully in all material respects with their respective obligations under the minimum funding standards of ERISA and the Internal Revenue Code with respect to each Plan and Money Purchase Plan. Neither the Borrower nor any ERISA Affiliate has sought a waiver of the minimum funding standard under Section 412 of the Internal Revenue Code or has applied for an extension of any amortization period under Section 412 of the Code with respect to any Plan or Money Purchase Plan. Neither the Borrower nor any ERISA Affiliate has failed to make any contribution or payment to any Plan which has resulted or may reasonably be expected to result in the imposition of a lien under ERISA or the Internal Revenue Code against the property or rights to property of the Borrower or any ERISA Affiliate.

(v) No Unfunded Benefit Liabilities exist with respect to any Plans, and no Unfunded Benefit Liabilities would exist with respect to any Plan if such Plan were terminated immediately.

(vi) No Reportable Event (other than a Reportable Event described in Section 4043(b) of ERISA or in PBGC Regulation Section 2615.23) has occurred with respect to any Plan.

(vii) No Termination Event has occurred or is reasonably anticipated to occur with respect to any Plan which has resulted in or which will result in the incurrence by the Borrower or any ERISA Affiliate of any liability to the PBGC under Title IV of ERISA which has not been discharged or satisfied. No such Termination Event is reasonably anticipated to occur which will result in an Encumbrance in favor of the PBGC against the property or rights to property of the Borrower or any ERISA Affiliate.

(viii) Neither the Borrower nor any ERISA Affiliate which is a "party in interest" (as that term is defined in Section 3(14) of ERISA) or a "disqualified person" (as that term is defined in Section 4975 of the Internal Revenue Code) with respect to any "employee benefit plan" (as defined in Section 3(3) of ERISA), has engaged in a "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Internal Revenue Code) involving any such employee benefit plan which will subject the Borrower or such ERISA Affiliate to the tax or penalty imposed under Section 502(i) of ERISA and Section 4975 of the Internal Revenue Code.

(ix) Except as set forth on Schedule 4.19, neither the Borrower nor any ERISA Affiliate currently contributes to, or is obligated to contribute to, or is a member of, any Multiemployer Plan. Neither the Borrower nor any ERISA Affiliate has incurred, or is reasonably expected to incur, any Withdrawal Liability to any Multiemployer Plan.

(x) The Borrower and each ERISA Affiliate has complied in all material respects with all requirements of Sections 10001 and 10002 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law No. 99-272); Title I, Subtitle B, Part 6 of ERISA; and Section 4980B of the Internal Revenue Code.

(xi) Neither the Borrower nor any ERISA Affiliate has entered into any transaction described in Section 4069(a) of ERISA.

(xii) No Benefit Arrangement provides postretirement welfare benefits of any type which will have a material adverse effect on the financial condition of the Borrower and the ERISA Affiliates taken as a whole and which will be required to be accounted for in the income statement, balance sheet and footnotes of the financial report of the Borrower or any ERISA Affiliate in the manner described in the Financial Accounting Standards Board, Proposed Statement of Financial Accounting Standards, Employer's Accounting for Postretirement Benefits Other Than Pensions, if the same were effective for the current Fiscal Year of the Borrower or any ERISA Affiliate.

**4.20 Environmental Matters.** (i) Except as set forth on Schedule 4.20 attached hereto :

(A) the Borrower and each Subsidiary of the Borrower are in material compliance with all applicable Environmental Laws;

(B) there has been no material Contamination or material release of Hazardous Substances, at, upon, under or within any property owned or leased by the Borrower or any Subsidiary of the Borrower since August 15, 1994, and, to the best of the Borrower's knowledge based exclusively on the Phase I and Phase II environmental site assessments (the Phase II environmental site assessments relate only to the Borrower's Titusville property) by Chester Engineers, Inc., Ground Water Technology, Inc., and Crouse & Company, copies of which have been delivered to the Bank, there has been no Contamination or release of Hazardous Substances on any other property that has migrated or threatens to migrate to any property owned or leased by the Borrower or any Subsidiary of the Borrower except as may be set forth in the Phase II environmental site assessment;

(C) to the best of the Borrower's knowledge there are no above ground storage tanks at any property owned or leased by the Borrower or any Subsidiary of the Borrower except as set forth on Schedule 4.20 attached hereto;

(D) there are no transformers, capacitors or other items of Equipment containing PCBs at levels in excess of 49 parts per million, which violate applicable Environmental Law, at any property owned or leased by the Borrower or any Subsidiary of the Borrower;

(E) other than materials used or produced, held, transported and disposed of in accordance with all Environmental Laws, neither Borrower nor any Subsidiary of the Borrower has used in its respective operations, nor stored on properties owned or leased by it Hazardous Substances;

(F) no Hazardous Substances are present at any property owned or leased by the Borrower or any Subsidiary of the Borrower in any material amount, except those which are transported, used, stored, disposed of and otherwise handled in accordance with all Environmental Laws, in proper storage containers; and

(G) (i) All permits and authorizations required under Environmental Laws for all operations of the Borrower and the Subsidiaries of the Borrower have been duly issued and are in full force and effect, including but not limited to those for air emissions, water discharges and treatment, storage tanks and the generation, treatment, storage and disposal of Hazardous Substances.

(ii) Except as set forth in Schedule 4.20, (A) there are no pending or, to the best of the Borrower's knowledge, threatened Environmental Claims against the Borrower, any Subsidiary of the Borrower or any property owned or leased by the Borrower or any Subsidiary of the Borrower; and (B) there is no condition or occurrence on any property owned or leased by the Borrower or any Subsidiary of the Borrower that to the best of the Borrower's knowledge could reasonably be anticipated (1) to form the basis of an Environmental Claim against the Borrower, any Subsidiary of the Borrower or their respective properties or (2) to cause any property owned or leased by the Borrower or any Subsidiary of the Borrower to be subject to any restrictions on its ownership, occupancy or transferability under any Environmental Law.

(iii) Except as set forth in Schedule 4.20, no notice relating to Hazardous Substances is contained in any deed relating to any property owned or leased by the Borrower and the Borrower is aware of no facts or conditions on any such property that would require that such a notice be placed in the deed to any such property.

(iv) Except as set forth in Schedule 4.20, no portion of any property owned or leased by a Loan Party contains asbestos-containing material that is or threatens to become friable to the best knowledge of the Borrower.

(v) The representations and warranties set forth in this Section 4.20 shall survive repayment of the Obligations and the termination of this Agreement and the other Loan Documents.

**4.21 Margin Stock.** Neither the Borrower nor any Subsidiary of the Borrower is engaged principally or as one of its important activities in the business of extending credit for the purpose, immediately, incidentally or ultimately, of purchasing or carrying margin stock (within the meaning of Regulation U). Furthermore, the proceeds of the Loans will be applied as set forth in Section 5.1 hereof.

**4.22 Business of Subsidiaries.**

**4.22a Holdings Business.** Holdings is a Delaware corporation and has as its sole business purpose the purchase of, holding of and sale or other disposition of investments permitted pursuant to Section 6.9, the advance of funds to the Borrower pursuant to the Holdings Credit Agreement and the holding of intangible assets.

**4.22b Dunkirk Business.** Dunkirk is a Delaware limited liability company; and Dunkirk's primary line of business is manufacturing specialty steel bar, rod and wire.

**4.23 Violations of Anti-Terrorism Laws.**

(i) Anti-Terrorism Laws. The Borrower is not in violation of any Anti-Terrorism Law and the Borrower has not engaged in or conspired to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(ii) Executive Order No. 13224. None of the Borrower, any Subsidiary of the Borrower nor any Affiliate of the Borrower or a Subsidiary, nor any of their respective agents acting or benefiting in any capacity in connection with any of the Loans, the use of the proceeds of the Loans or any other transactions hereunder, is a Blocked Person. None of the Borrower, any Subsidiary of the Borrower nor any Affiliate of the Borrower or a Subsidiary, nor any of their respective agents acting or benefiting in any capacity in connection with any Loan, the use of the proceeds of any Loan or any other transactions hereunder, (x) conducts any business with, or engages in making or receiving any contribution of funds, goods or services to or for the benefit of, any Blocked Person, or (y) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224.

**4.24 Trading with the Enemy.** None of the Borrower or any of the Subsidiaries of the Borrower has engaged, nor does any of the Borrower or any Subsidiary of the Borrower intend to engage, in any business or activity prohibited by the Trading with the Enemy Act.

**4.25 Fiscal Year.** The Fiscal Year of the Borrower ends on December 31 of each year.

**4.26 Material Contracts; Burdensome Restrictions.** All material contracts relating to the business operations of each of the Borrower and its Subsidiaries, including all employee benefit plans and labor contracts, are valid, binding and enforceable upon the Borrower or its Subsidiary, as the case may be, and each of the other parties thereto in accordance with their respective terms; and except as set forth on Schedule 4.26, there is no default thereunder, to the knowledge of the Borrower, with respect to the other parties to such contracts which has given rise to, or would reasonably be expected to give rise to, a Material Adverse Change. No contract, lease, agreement or other instrument to which the Borrower or any Subsidiary of the Borrower is a party or is bound and no provision of any applicable law or governmental regulation applicable to the Borrower or any Subsidiary of the Borrower or their respective properties could reasonably be expected to have a Material Adverse Change.

**4.27 Investment Company Act.** Neither the Borrower nor any Subsidiary of the Borrower is an “investment company” registered or required to be registered under the Investment Company Act of 1940, as amended from time to time, or a company under the “control” of an “investment company,” as those terms are defined in such Act, and shall not become such an “investment company” or under such “control.”

**4.28 Public Utility Holding Company Act.** Neither the Borrower nor any Subsidiary of the Borrower is a “holding company,” or a “subsidiary company” of a “holding company,” or an “affiliate” of a “holding company” or a “subsidiary company” of a “holding company” within the meaning of the Public Utility Holding Company Act of 1935, as amended from time to time.

**4.29 Jurisdictions.** The jurisdictions in which the Borrower and its Subsidiaries carry on business and have assets are accurately set forth in Schedule 4.29.

**4.30 Bank Accounts.** Schedule 4.30 accurately sets out each bank account maintained by the Borrower and its Subsidiaries and accurately sets forth the institution and location where each such account is maintained.

**4.31 Tax Shelter Regulations.** The Borrower does not intend to treat any Loan hereunder and related transactions as being a “reportable transaction” (within the meaning of Treasury Regulation Section 1.6011-4). In the event Borrower determines to take any action inconsistent with such intention, it will promptly notify the Bank thereof. If the Borrower so notifies the Bank, the Borrower acknowledges that the Bank may treat the Loans as part of a transaction that is subject to Treasury Regulation Section 301.6112-1, and the Bank will maintain the lists and other records required by such Treasury Regulation.

**4.32 Full Disclosure.** Neither this Agreement nor any other document, certificate or statement furnished to the Bank by or on behalf of the Borrower pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which they were made, not misleading. There is no fact known to the Borrower which materially and adversely affects the business, property, assets, financial condition, results of operations or prospects of the Borrower or any Subsidiary of the Borrower which has not been set forth in this Agreement or in the other documents, certificates and statements (financial or otherwise) furnished to the Bank by or on behalf of the Borrower or any Subsidiary of the Borrower prior to or on the date hereof in connection with the transactions contemplated hereby.

## ARTICLE 5. AFFIRMATIVE COVENANTS

From the date hereof and thereafter until the last to occur of (i) the termination of the Revolving Credit Commitment and (ii) the payment in full of the Notes and the other Obligations of the Borrower hereunder, the Borrower agrees, for the benefit of the Bank, that it will comply, or cause compliance by its Subsidiaries, with each of the following affirmative covenants:

**5.1 Use of Proceeds.** Proceeds of the Revolving Credit Loans shall be used by the Borrower only for Capital Expenditures and general working capital purposes; and proceeds of the Term Loan shall be used to finance capital projects for the Borrower or Dunkirk.



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**5.2 Delivery of Financial Statements and Other Information.** During the term hereof, the Borrower shall deliver or cause to be delivered to the Bank the following financial statements and other information:

**5.2a Annual Reports.** As soon as available and in any event within 90 days after the end of each Fiscal Year of the Borrower, the Borrower shall deliver to the Bank an audited Consolidated balance sheet as of the end of such Fiscal Year and the related audited Consolidated statements of operations and cash flows for such Fiscal Year, each of which shall be prepared in accordance with GAAP consistently applied and setting forth in each case in comparative form the figures for the previous Fiscal Year, when available, all presenting fairly the Consolidated financial condition of the Borrower in such reasonable detail as the Bank may request from time to time, and all to be accompanied by an unqualified opinion of Schneider Downs & Co., Inc., or other certified public accountants acceptable to the Bank.

**5.2b Quarterly Reports.** As soon as available and in any event within 45 days after the end of each Fiscal Quarter of each Fiscal Year of the Borrower, the Borrower shall deliver to the Bank (i) an unaudited Consolidated balance sheet as of the end of such Fiscal Quarter and (ii) the related unaudited Consolidated statements of operations and cash flows for such Fiscal Quarter and for the period beginning on the first day of the current Fiscal Year through the last day of the Fiscal Quarter for which such financial statements are being delivered, each of which shall be prepared in accordance with GAAP consistently applied and setting forth in each case in comparative form the figures for the Fiscal Quarter in the prior Fiscal Year, when available, which corresponds to the Fiscal Quarter for which the statements are being delivered, all presenting fairly the Consolidated financial condition of the Borrower in such reasonable detail as the Bank may request from time to time and certified (subject to normal year-end adjustments) as to fairness of presentation, GAAP and consistency by the chief financial officer of the Borrower.

**5.2c Compliance Certificate.** Simultaneously with the delivery of each set of financial statements referred to in Sections 5.2a and 5.2b, the Borrower shall deliver to the Bank a completed Compliance Certificate substantially in the form of Exhibit "C", executed by an Authorized Officer, and containing such additional information as the Bank may request from time to time, (i) stating that the financial statements being delivered with such Compliance Certificate are true, complete and correct, (ii) setting forth in reasonable detail the calculations required to establish whether the Borrower was in compliance with the requirements of Sections 6.4 for the fiscal period in question, (iii) stating (A) whether any Default or Event of Default exists on the date of such certificate, (B) whether any Material Adverse Change has occurred since the date of the previously delivered Compliance Certificate, (C) whether any event has occurred since the date of the previously delivered Compliance Certificate which may result in a Material Adverse Change; and (D) if any Default or Event of Default, or any Material Adverse Change has occurred during the Fiscal Quarter or Fiscal Year to which the Compliance Certificate relates or is in existence, setting forth the details thereof and the action which the Borrower has taken, is taking or proposes to take with respect thereto.

**5.2d Accountant's Certificate.** Simultaneously with the delivery of each set of annual financial statements referred to in Section 5.2a, the Borrower shall deliver to the Bank a certificate of the certified public accountant preparing such statements stating either that his examination has not disclosed the occurrence or continuance of a Default or an Event of Default or, if his examination has disclosed a Default or an Event of Default, a description of such occurrence.

**5.2e Business Plan.** As soon as available and in any event not more than 30 days after the end of each Fiscal Year, the Borrower shall deliver to the Bank its annual budget and business plan for the then current Fiscal Year, containing additional information and business activity forecasts as the Bank may reasonably request from time to time.

**5.2f Other Reports, Information and Notices.** The Borrower will deliver or cause to be delivered to the Bank, within the time periods set forth below, the following other reports, information and notices:

(i) **Auditor's Reports.** As soon as practicable after they have become available, copies of all other reports and management letters submitted to the Borrower by its accountants in connection with any annual or interim audit of the books of the Borrower made by such accountants.

(ii) **Reports to Shareholders.** As soon as practicable after they have become available, all reports, notices and proxy statements sent by the Borrower to its shareholders.

(iii) **Securities Reports.** As soon as practicable after they have become available, all regular and periodic reports, if any, filed by the Borrower with the SEC or any other Governmental Authority succeeding to any of the functions of the SEC or any similar or corresponding board, bureau or agency, or to any state securities commission.

(iv) **Notice of Defaults and Material Adverse Changes.** Promptly after any officer of the Borrower has learned of the occurrence or existence of a Default or Event of Default, or of an event or set of circumstances which has caused or which may cause a Material Adverse Change, telephonic notice thereof specifying the details thereof, the anticipated effect thereof and the action which the Borrower has taken, is taking or proposes to take with respect thereto, which notice shall be promptly confirmed in writing within five days by the president, any vice president or the chief financial officer of the Borrower.

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(v) Notice of Litigation. (A) Promptly after the commencement thereof, written notice of any action, suit, proceeding or investigation before any Governmental Authority, court or arbitrator, affecting the Borrower or any Subsidiary of the Borrower, except for actions, suits, proceedings and investigations which, if adversely determined, would not and could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change and (B) promptly after any Authorized Officer has notice thereof, written notice of any decision, ruling, judgment, appeal, reversal or other significant action in connection with any existing action, suit, proceeding or investigation before any Governmental Authority, court or arbitrator affecting the Borrower or any Subsidiary of the Borrower, which would or could reasonably be expected to result in a Material Adverse Change.

(vi) Orders, Etc. Promptly after receipt thereof, a copy of any material order, writ, decree, judgment, decision or injunction issued by any Governmental Authority in any material proceeding, action, suit or investigation to which the Borrower or any Subsidiary of the Borrower is a party.

(vii) ERISA Reports.

(A) As soon as possible, and in any event not later than the date notice is sent to the PBGC, notice of any Reportable Event regarding any Plan and an explanation of any action which has been or which is proposed to be taken with respect thereto;

(B) concurrent with the filing thereof, a copy of any request to the United States Secretary of the Treasury for a waiver or variance of the minimum funding standards of Section 302 of ERISA and Section 412 of the Internal Revenue Code with respect to any Plan or Money Purchase Plan;

(C) as soon as possible, but in no event later than 60 days after an officer of the Borrower becomes aware of unfunded accumulated benefit obligations for any Plan, as determined in accordance with the Financial Accounting Standards Board Statement of Financial Accounting Standards No. 87, Employer's Accounting for Pensions, (or any superseding statement thereto), written notice of the occurrence of such event;

(D) upon the request of the Bank, copies of each annual report (Form 5500 Series) with accompanying schedules filed with respect to any Plan or Money Purchase Plan;

(E) promptly after receipt thereof, a copy of any notice which the Borrower or any ERISA Affiliate may receive from the PBGC relating to the intention of the PBGC to terminate any Plan or Money Purchase Plan, or to appoint a trustee to administer any Plan or Money Purchase Plan, or to assert any liability under Title IV of ERISA against the Borrower or any ERISA Affiliate;

(F) a copy of any notice of assessment of Withdrawal Liability received by the Borrower or any ERISA Affiliate from any Multiemployer Plan;

(G) as soon as possible, and in no event later than the date notification is sent to the PBGC, notice of the failure by the Borrower or any ERISA Affiliate to make a required installment or other payment under Section 302 of ERISA and Section 412 of the Internal Revenue Code;

(H) concurrent with the filing thereof, a copy of any Notice of Intent to Terminate any Plan filed under Section 4041(c) of ERISA; and

(I) promptly after receipt thereof, but without any obligation or responsibility to secure the same, copies of any calculations of estimated Unfunded Benefit Liabilities (or, if applicable, the portions of any estimated Unfunded Benefit Liabilities that would be allocated to the Borrower or any ERISA Affiliate under Sections 4063 and 4064 or Section 4062(e) of ERISA) for any Plans.

(ix) Notice of Environmental Claims. Promptly after receipt thereof, the Borrower shall deliver to the Bank a copy of any Environmental Claim.

(x) Tax Returns. The Borrower shall deliver to the Bank, promptly upon the request of the Bank, copies of all Federal, state, local and foreign tax returns and reports filed by the Borrower or a Subsidiary of the Borrower in respect of taxes measured by income (excluding sales, use and like taxes).

(xi) Notices of Tax Audits. Promptly, and in any event within 10 days after receipt thereof by the Borrower, the Borrower shall furnish to the Bank a copy of each notice from any Governmental Authority received by the Borrower or a Subsidiary of the Borrower of such Governmental Authority's intention to audit any Federal, state, local or foreign tax return of the Borrower or a Subsidiary of the Borrower and a copy of each subsequent notice with respect thereto from any such Governmental Authority.

**5.2g Additional Information; Visitation.** The Borrower shall deliver to the Bank such additional financial statements, reports, financial projections and other information, whether or not financial in nature, as the Bank may reasonably request from time to time. The Borrower will permit, and will cause its Subsidiaries to permit, the Bank and the Bank's designated employees and agents to have access, at any time and from time to time, upon reasonable notice and during normal business hours, to visit any of the properties of the Borrower or any of its Subsidiaries, to examine and make copies of any of its respective books of record and account and such reports and returns as the Borrower may file with any Governmental Authority and discuss the affairs and accounts of the Borrower or any of its Subsidiaries with, and be advised about them by, any Authorized Officer and the Borrower's certified public accountants.

**5.3 Preservation of Existence; Qualification.** At its own cost and expense, the Borrower will do all things necessary to preserve and keep in full force and effect its and each Subsidiary of the Borrower respective corporate existence and qualification under the laws of the state of their respective incorporation and each state where, due to the nature of their respective activities or the ownership of their respective properties, qualification to do business is required or if not so qualified in any state, the lack of such qualification will not materially affect the Bank's ability to enforce the Agreement, the Notes or the other Loan Documents or materially affect the Borrower's or each Subsidiary's of the Borrower ability to carry on its business.

**5.4 Compliance with Laws and Contracts.** The Borrower shall be, and shall cause each Subsidiary of the Borrower to be, in material compliance with all applicable Governmental Rules (including, but not limited to, Environmental Laws). The Borrower shall comply, and shall cause any Subsidiary of the Borrower to comply, with all material provisions of each material contract and agreement to which the Borrower or any Subsidiary of the Borrower is a party.

**5.5 Accounting System; Books and Records.** The Borrower shall maintain a system of accounting established and administered in accordance with GAAP consistently applied and will set aside on its books all such proper reserves as shall be required by GAAP. Further, the Borrower will maintain, and will cause each Subsidiary of the Borrower to maintain, proper books of record and account in accordance with GAAP in which full, true and correct entries shall be made of all of its respective properties and assets and its respective dealings and business affairs.

**5.6 Payment of Taxes and Other Liabilities.** The Borrower shall promptly pay and discharge, and cause each Subsidiary of the Borrower to promptly pay and discharge, all obligations, accounts and liabilities to which it is subject, including but not limited to all taxes, assessments and governmental charges and levies upon it or upon any of its income, profits, or property, prior to the date on which penalties attach thereto; provided, however, that for purposes of this Agreement, neither the Borrower nor any Subsidiary of the Borrower shall be required to pay any tax, assessment, charge or levy (i) the payment of which is being contested in good faith by appropriate and lawful proceedings diligently conducted and (ii) as to which the Borrower shall have set aside on its books reserves for such claims as are determined to be adequate by the application of GAAP consistently applied, but only to the extent that failure to discharge any such liabilities would not result in any additional material liability; and provided, further, that the Borrower shall pay all such contested liabilities forthwith upon the commencement of proceedings to foreclose any lien or other Encumbrance which may have attached as security therefor.

**5.7 Insurance.** The Borrower shall maintain, and shall cause its Subsidiaries to maintain, at all times adequate insurance to the satisfaction of the Bank with the insurers shown on Schedule 4.16 or other financially sound and reputable insurers acceptable to the Bank against such risks of loss as are customarily insured against and in amounts customarily carried by Persons owning, leasing or operating similar properties, including, but not limited to: (i) fire and theft and extended coverage insurance in an amount at least equal to the total full replacement cost of its insurable property, (including boiler coverage, if applicable); (ii) liability insurance on account of injury to persons or property; (iii) insurance which complies with all applicable workers' compensation, unemployment and similar laws; (iv) interruption of the business and loss of income of a Loan Party; (v) flood insurance, at any time when any real property of a Loan Party on which the Bank has a mortgage is designated to be in an area of special flood hazard; and (vi) such other insurance as the Bank may reasonably request from time to time, all of the foregoing to be acceptable to the Bank at all times during the term hereof. The Borrower shall cause all such insurance to be issued with a long form lender's and mortgagee's loss payable endorsement in favor of the Bank, providing for at least 30 days' written notice to the Bank prior to cancellation and the Borrower shall cause a copy of each policy and an original certificate of insurance to be delivered to the Bank prior to the first extension of credit under this Agreement and no later than 30 days prior to the expiration of any such insurance coverage. Prior to the first extension of credit under this Agreement and thereafter within 90 days of the close of each Fiscal Year, the Borrower will deliver to the Bank a schedule indicating all insurance coverage then in effect for the Borrower, in such detail as the Bank may reasonably request from time to time.

**5.8 Maintenance of Properties.** The Borrower shall maintain, preserve, protect and keep, and the Borrower shall cause each of its Subsidiaries to maintain, preserve, protect and keep, its respective properties in good repair, working order and condition (ordinary wear and tear excepted), and make all necessary and proper repairs, renewals and replacements so that its business carried on in connection therewith may be properly and advantageously conducted at all times.

**5.9 Maintenance of Leases.** The Borrower shall maintain, and shall cause its Subsidiaries to maintain, in full force and effect all leases for its respective real properties, and all other leases for personal property if the failure to maintain such personal property lease would constitute a Material Adverse Change.

**5.10 Maintenance of Patents, Trademarks, Permits, Etc.** The Borrower shall maintain, and shall cause its Subsidiaries to maintain, in full force and effect, and investigate and prosecute all infringements of, all patents, trademarks, trade names, copyrights and other intellectual property and all licenses, franchises, permits and other authorizations necessary in the judgment of the Borrower for the ownership and operation of its properties and business, and the properties and business of its Subsidiaries.

**5.11 Bank Accounts.** Except as otherwise provided for herein, the Borrower shall maintain, and shall cause its Subsidiaries to maintain, all of their respective bank accounts with the Bank.

**5.12 Plans and Benefit Arrangements.** The Borrower shall, and shall cause each ERISA Affiliate to, comply with ERISA, the Internal Revenue Code and all other applicable Governmental Rules which are applicable to Plans and Benefit Arrangements, except where the failure to do so, alone or in conjunction with any other failure, would not result in a Material Adverse Change.

**5.13 Environmental Matters and Indemnification.**

(i) Each Loan Party shall be in material compliance with all Environmental Laws.

(ii) At least annually, each Loan Party shall inspect all property owned or leased by it and audit operations thereon to maintain compliance with all Environmental Laws.

(iii) Each Loan Party shall employ appropriate technology in order to maintain compliance with all applicable Environmental Laws, including without limitation the replacement or updating, if required, of underground or aboveground storage tanks owned by a Loan Party.

(iv) The Borrower shall investigate and remediate any Contamination in compliance with Governmental Rules, using a reputable environmental remediation firm, and shall inform the Bank in writing from time to time as to the status of any such remediation.

(v) The Borrower shall defend and indemnify the Bank and hold it harmless from and against all loss, liability, damage, expense, claims, costs, fines, penalties, assessments (including without limitation, interest on any of the foregoing), reasonable attorneys' fees and reasonable consultants' and contractors' fees, asserted against or suffered or incurred by the Bank which arise, result from or in any way relate to (A) a breach or violation of any Environmental Law, (B) the imposition of any Encumbrance on the Borrower's assets, (C) Contamination or the presence of a Hazardous Substance and (D) an Environmental Claim. The Borrower's obligations hereunder shall arise at the inception or upon the discovery of the event giving rise to the obligation to indemnify, whether or not any Governmental Authority has taken or has threatened any action, so that the Borrower shall bear all expenses from the outset. The Borrower's obligations pursuant to this item (v) shall survive the termination of this Agreement and the repayment of the Obligations.

**5.14 Visitation Rights.** The Borrower shall permit, and shall cause its Subsidiaries to permit, any of the officers or authorized employees or representatives of the Bank to visit and inspect any of the properties of the Borrower, or a Subsidiary of the Borrower, and to examine and make excerpts from its books and records and discuss its respective business affairs, finances and accounts with its officers, all in such detail and at such times and as often as the Bank may reasonably request, provided that Bank shall provide the Borrower, or the Subsidiary of the Borrower, as the case may be, with reasonable notice prior to any visit or inspection.

**5.15 Further Assurances; Power of Attorney.** At any time and from time to time, upon the Bank's request, the Borrower shall make, execute and deliver, and shall cause any other Person to make, execute and deliver, to the Bank, and where appropriate shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refiled, at such time and in such offices and places as shall be deemed desirable by the Bank, any and all such further certificates and other documents and instruments as the Bank may consider necessary or desirable in order to effectuate, complete, perfect, continue or preserve the obligations of the Borrower hereunder or under the other Loan Documents and the Encumbrances created hereby. The Borrower hereby appoints the Bank, and any of its officers, directors, employees and authorized agents, with full power of substitution, upon any failure by the Borrower to take or cause to be taken any action described in the preceding sentence, to make, execute, record, file, re-record or refile any and each such instrument, certificate and document for and in the name of the Borrower. The power of attorney granted pursuant to this Section 5.15 is coupled with an interest and shall be irrevocable until all of the Obligations are paid in full, the Revolving Credit Commitment is terminated and all Letters of Credit have expired or have been terminated.

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## ARTICLE 6. NEGATIVE COVENANTS

From the date hereof and thereafter until the last to occur of (i) the termination of the Revolving Credit Commitment and (ii) the payment in full of the Notes and the other Obligations of the Borrower hereunder, the Borrower agrees, for the benefit of the Bank, that it will comply, or cause compliance by its Subsidiaries, with each of the following negative covenants:

**6.1 Indebtedness.** The Borrower shall not, nor shall the Borrower permit any Subsidiary of the Borrower, to create, incur, assume, cause, permit or suffer to exist or remain outstanding, any Indebtedness, except for:

- (i) Indebtedness owed by a Loan Party to the Bank or an affiliate of the Bank;
- (ii) Indebtedness in existence as of the date hereof as set forth on Schedule 6.1, including all extensions and renewals thereof; provided, however that no such extension or renewal may involve an increase in the principal amount of such Indebtedness or any other significant change in the terms thereof;
- (iii) Indebtedness due under Governmental Loans;
- (iv) Purchase money Indebtedness incurred by the Borrower or Dunkirk in connection with the acquisition of capital assets; provided, however, that the outstanding principal amount of such Indebtedness shall not exceed, in the aggregate at any one time, \$5,000,000;
- (v) Indebtedness incurred by the Borrower, other than Indebtedness enumerated in items (i) through (iv) above, incurred after the date hereof; provided, however, that the outstanding principal amount of such Indebtedness shall not exceed, in the aggregate at any one time, \$5,000,000;
- (vi) Subordinated Indebtedness incurred by the Borrower and due to Holdings pursuant to the Holdings Credit Agreement; and
- (vii) Indebtedness incurred to finance a Funded Acquisition which indebtedness, if not a Government Loan, must be subordinated to the Bank as to security and payment in a manner in form and substance reasonably satisfactory to the Bank.

**6.2 Guarantees.** The Borrower shall not enter into any Guarantees, nor permit any Subsidiary of the Borrower to enter into any Guarantees, except for (i) endorsements of negotiable instruments for deposit and collection and similar transactions in the ordinary course of business, (ii) unsecured Guaranties of the Borrower to support the obligations of a wholly owned Subsidiary created pursuant to Section 6.6, and (iii) Guaranties by Dunkirk, Holdings or an subsequently formed Subsidiaries of the Borrower or the Obligators.

**6.3 Encumbrances.** The Borrower shall not create, assume, incur, permit or suffer to exist, and Borrower shall not permit any Subsidiary to create, assume, incur, permit or suffer to exist, any Encumbrance upon any of their respective assets and properties, whether tangible or intangible and whether now owned or in existence or hereafter acquired or created and wherever located, nor acquire nor agree to acquire any assets or properties subject to an Encumbrance, except for:

- (i) Encumbrances granted to the Bank as security for the Obligations;
- (ii) The Encumbrances in existence as of the date hereof, as listed on Schedule 6.3;
- (iii) Permitted Encumbrances; and
- (iv) Encumbrances on real or personal property in favor of sellers, lessors or lenders, in order to secure Indebtedness permitted pursuant to items (ii) through (v) of Section 6.1; provided such Encumbrances are limited to the assets acquired with the Indebtedness permitted by items (ii) through (v) of Section 6.1.

### **6.4 Financial Covenants.**

(i) Minimum Consolidated Tangible Net Worth. At all times during the term hereof, the Borrower's Consolidated Tangible Net Worth shall not be less than an amount equal to the Minimum Consolidated Tangible Net Worth required as of the date of determination.

(ii) Leverage. Beginning with the Fiscal Quarter ending March 31, 2009, and as at the end of each Fiscal Quarter thereafter, the Borrower's ratio of Consolidated Total Indebtedness to EBITDA shall not exceed 2.50 to 1.00.

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(iii) **Debt Service Coverage Ratio.** Beginning with the Fiscal Quarter ending March 31, 2009, and as at the end of each Fiscal Quarter thereafter, the ratio of the Borrower's EBITDA to Consolidated Debt Service shall not be less than 2.50 to 1.0.

**6.5 Limitation on Dividends and Stock Repurchases.** The Borrower shall not declare or pay any dividends on, or make any distributions relating to or returns of capital on, any of its capital stock, or purchase or redeem any of its capital stock; provided, however, that, so long as no Default or Event of Default exists or would be caused by such distribution, the Borrower may pay dividends in any Fiscal Year which do not in the aggregate exceed fifty percent (50%) of the Borrower's Consolidated Excess Cash Flow for such Fiscal Year.

**6.6 Liquidations, Mergers, Consolidations, Acquisitions, Etc.** No Loan Party shall dissolve, liquidate or wind up its affairs, or become a party to any merger or consolidation, or acquire by purchase, lease or otherwise all or substantially all of the assets, capital stock or other equity interests of any other Person, or become or agree to become a general partner in any general or limited partnership or a joint venturer in any joint venture, except for:

- (i) the consolidation or merger of any wholly-owned Subsidiary with or into the Borrower or with or into any other wholly-owned Subsidiary;
- (ii) the creation of a wholly owned Subsidiary to consummate a transaction permitted in items (iii), (iv) and (v) below;
- (iii) mergers, stock acquisitions or asset acquisitions, the cost of which to the Borrower either in the form of capital investment or assumption of liabilities (including without limitation (A) the issuance of a Guaranty permitted by Section 6.2 hereof, (B) a loan or advance permitted by Section 6.8 hereof or (C) investments permitted by Section 6.9 hereof) in the aggregate in any one Fiscal Year is \$10,000,000 or less;
- (iv) mergers, stock acquisitions or asset acquisitions, the cost of which to the Borrower either in the form of capital investment or assumption of liabilities (including without limitation (A) the issuance of a Guaranty permitted by Section 6.2 hereof (B) a loan or advance permitted by Section 6.8 hereof or (C) investments permitted by Section 6.9 hereof) in the aggregate in any one Fiscal Year is greater than \$10,000,000; provided, that for each such merger or acquisition the amount by which such investment or assumption of liabilities exceeds \$10,000,000 in the aggregate in any one Fiscal Year shall, immediately upon the consummation of such merger or acquisition, be added to the minimum required amount of the Borrower's Tangible Net Worth for the purposes of Section 6.4; and
- (v) a Funded Acquisition; provided that upon consummation of such Funded Acquisition the Revolving Credit Commitment less outstanding Revolving Credit Loans, less the aggregate Stated Amount of all outstanding Letters of Credit, less the aggregate amount of all outstanding Unreimbursed L/C Draws shall not be less than \$5,000,000.

The foregoing notwithstanding, no merger, stock acquisition or asset acquisition otherwise permitted by items (ii), (iii), or (iv) above shall be permitted unless both immediately prior to and immediately after such merger or acquisition and taking into account such merger or acquisition no Default or Event of Default has occurred and is continuing.

**6.7 Dispositions of Assets.** No Loan Party shall sell, convey, assign, lease, abandon or otherwise transfer or dispose of, voluntarily or involuntarily, any of its properties or assets, whether tangible or intangible (including but not limited to sales, assignments, discounts or other dispositions of accounts, contract rights, chattel paper, equipment or general intangibles, with or without recourse, and sale/leaseback transactions), except for:

- (i) any sale of inventory in the ordinary course of business;
- (ii) any sale, transfer or lease in the ordinary course of business of assets which are no longer necessary or required in the conduct of a Loan Party's business;
- (iii) any sale, transfer or lease of assets in the ordinary course of business which assets are replaced by substitute assets acquired or leased by a Loan Party; provided, however, that such substitute assets are subject to a first and prior lien and security interest in favor of the Bank to the extent they are not subject to an Encumbrance in favor of the seller or lessor of such assets; and
- (iv) any sale, transfer or lease of the office building located at 90 Willowbrook Avenue, Dunkirk, NY 14048, built in 1956 consisting of approximately 27,400 square feet of floor space and approximately 4 acres immediately adjacent to the building.

The foregoing notwithstanding, Net Cash Proceeds aggregating during the term hereof in excess of \$2,500,000 derived from a disposition of assets permitted by items (ii), (iii) and (iv) hereof shall be applied to reduce the outstanding principal balance of the Term Loan in accordance with the provisions of Section 2.2d hereof.

**6.8 Loans and Other Advances.** The Borrower shall not make, and the Borrower shall not allow any Subsidiary of the Borrower to make, loans or other advances of funds, except that (i) the Borrower may make loans or other advances to a wholly owned Subsidiary created pursuant to Section 6.6 to fund acquisitions permitted by Section 6.6 and (ii) Holdings may advance funds to the Borrower under and pursuant to the Holdings Credit Agreement.

**6.9 Investments.** No Loan Party shall at any time nor shall it allow any Subsidiary of the Borrower at any time purchase, acquire or own any stock, bonds, notes, or securities of, or any partnership interest (whether general or limited) in, or any other interest in, or make any capital contribution to, any other Person, or become a joint venture partner in any joint venture, or agree, become or remain liable to do any of the foregoing, except for:

(i) debt securities having a maturity of not more than one year issued or guaranteed by the United States government or by an agency or instrumentality thereof;

(ii) certificates of deposit, bankers acceptances and time deposits, which in each case mature within one year from the date of purchase thereof and which are issued by a Qualified Bank;

(iii) commercial paper maturing in 270 days or less from the date of issuance which, at the time of acquisition by a Loan Party either (A) is accorded the highest rating by Standard and Poor's Rating Group, a division of McGraw Hill, Inc. or Moody's Investors Service, Inc. or (B) is issued by the Bank;

(iv) direct obligations of the United States of America or any agency or instrumentality of the United States of America, the payment or guarantee of which constitutes a full faith and credit obligation of the United States of America, in each case maturing in 12 months or less from the date of acquisition;

(v) ownership of the capital stock of Dunkirk, Holdings and the Subsidiaries as permitted by Section 6.6 of this Agreement; provided, however, no Subsidiary of the Borrower shall own the stock of any other Subsidiary; and

(vi) money market funds or income funds with a history of maintaining a stable net asset value per share.

**6.10 Affiliate Transactions.** No Loan Party shall enter into or carry out any transaction with an Affiliate (including, without limitation, purchasing property or services from or selling property or services to, any Affiliate or other Person) unless such transaction (i) is not otherwise prohibited by this Agreement, (ii) is entered into in the ordinary course of business upon fair and reasonable arm's-length terms and conditions which are fully disclosed to the Bank and (iii) is in accordance with all applicable Governmental Rules.

**6.11 Use of Proceeds.** The Borrower shall not use any proceeds of the Loans or any Letter of Credit either directly or indirectly (i) for the purpose of "purchasing or carrying any margin stock" within the meaning of Regulations T, U or X, or (ii) (x) to knowingly purchase any Ineligible Securities from a Section 20 Subsidiary during any period in which such Section 20 Subsidiary makes a market in such Ineligible Security, (y) to knowingly purchase during the underwriting or placement period Ineligible Securities being underwritten or privately placed by a Section 20 Subsidiary or (z) to make payments of principal or interest on Ineligible Securities underwritten or privately placed by a Section 20 Subsidiary and issued by or for the benefit of the Borrower or an Affiliate of the Borrower.

**6.12 Change of Business.** (i) The Borrower shall not engage directly or indirectly in any business other than the production, conversion or marketing of specialty and low alloy steels, and (ii) the Borrower shall not allow a Subsidiary to engage in any business except as set forth in Section 4.22.

**6.13 Change of Fiscal Year.** The Borrower shall not change its Fiscal Year which now ends on December 31.

**6.14 ERISA.** The Borrower shall not:

(i) (A) With respect to any Plan or Money Purchase Plan, incur any material liability for failure to make timely payment of any contribution or installment required under Section 302 of ERISA and Section 412 of the Internal Revenue Code, whether or not waived, or otherwise materially fail to comply with the funding provisions set forth therein, (B) with respect to any Plan or Money Purchase Plan, suffer to exist any lien under Section 302(f) of ERISA or Section 412(n) of the Internal Revenue Code against the property and rights to property of the Borrower or any ERISA Affiliate or (C) terminate, or permit any ERISA Affiliate to terminate, any Plan or Money Purchase Plan in a manner which could reasonably be expected to result in the imposition of a lien upon the property or rights to property of the Borrower or any ERISA Affiliate pursuant to Section 4068 of ERISA;

(ii) Engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Internal Revenue Code) with respect to any "employee benefit plan" (as defined in Section 3(3) of ERISA) for which a statutory or administrative exemption is not available under Section 408 of ERISA or Section 4975 of the Internal Revenue Code; or

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(iii) Without the prior written consent of the Bank, partially or completely withdraw from any Multiemployer Plan where such withdrawal could reasonably be expected to subject the Borrower or any ERISA Affiliate to Withdrawal Liability.

**6.15 Amendments to Certain Documents.** No Loan Party shall amend in any material respect its certificate of incorporation, by-laws, or other organizational documents, without providing at least 10 days' prior written notice to the Bank and, in the event that such amendment would be adverse to the Bank, as determined in the Bank's sole discretion, obtaining the prior written consent of the Bank.

**6.16 Limitation on Negative Pledge Clauses.** Neither the Borrower nor any of its Subsidiaries shall enter into any agreement with any Person (other than the Bank pursuant hereto) which prohibits or limits the ability of the Borrower or any of its Subsidiaries to create, incur, assume or suffer to exist any Encumbrance upon any of its property, assets or revenues, whether now owned or hereafter acquired.

#### **ARTICLE 7. CONDITIONS TO MAKING EXTENSIONS OF CREDIT**

**7.1 All Loans.** The obligation of the Bank to establish the commitments to lend pursuant hereto, to make any Loan and to issue any Letter of Credit hereunder is subject to the satisfaction of each of the following conditions precedent:

**7.1a Work Cash Sweep Agreement.** No advance pursuant to Section 2.1 shall occur if either the Borrower or the Bank has terminated the Working Cash Sweep Agreement, unless the Borrower and the Bank have entered into a written amendment hereto which governs the procedures for the advance of Revolving Credit Loans hereunder.

**7.1b No Default or Event of Default.** The Borrower shall have performed and complied with all agreements and conditions which are required hereby or by any other Loan Document to be performed or complied with by it prior to such Loan being made or such Letter of Credit being issued, and, at the time of such Loan or the issuance of such Letter of Credit, no Default or Event of Default has occurred and is continuing or will result from the making such Loan or the issuance of such Letter of Credit.

**7.1c No Material Adverse Change.** At the time of making such Loan or the issuance of such Letter of Credit, no Material Adverse Change has occurred and is continuing.

**7.1d Representations Correct.** The representations and warranties contained in Article 4 hereof and in the other Loan Documents and otherwise made in writing by or on behalf of the Borrower in connection with the transactions contemplated by this Agreement shall be (i) correct when made and (ii) correct in all material respects at the time of such Loan or the issuance of such Letter of Credit.

Each request for a Loan or for the issuance of a Letter of Credit or amendment thereto whether made orally or in writing, shall be deemed to be, as of the time made, a certification by the Borrower as to the accuracy of the matters set forth in Sections 7.1b, 7.1c and 7.1d.

**7.2 Initial Extension of Credit.** The obligation of the Bank to make the first Revolving Credit Loan or to advance the Term Loan (or the issuance of the first Letter of Credit hereunder) is subject to the satisfaction of each of the following conditions precedent, in addition to the conditions precedent set forth in Section 7.1:

**7.2a Credit Agreement.** Receipt by the Bank of a fully executed copy of this Agreement.

**7.2b Schedules.** Receipt by the Bank of all schedules and exhibits to this Agreement and the other Loan Documents prepared by the Borrower, and a determination by the Bank that all exceptions shown on such schedules are satisfactory to it.

**7.2c Notes.** Receipt by the Bank of the Notes, each executed by the Borrower.

**7.2d Guaranty Agreement.** Receipt by the Bank of a Guaranty Agreement executed by each Subsidiary of the Borrower.

**7.2e Working Cash Agreement.** The Bank shall have received a duly executed counterpart original of the Working Cash Sweep Agreement.

**7.2f Subordination Agreement.** Receipt by the Bank of the acknowledgment of subordination agreement duly executed by a Borrower and Holdings in form and substance satisfactory to the Bank.

**7.2g Hazard Liability Insurance.** Receipt by the Bank of (i) copies of the Loan Parties' insurance policies, containing long-form lender loss payable and mortgagee endorsements satisfactory to the Bank and which in all other respects comply with the requirements of Sections 4.16 and 5.7 and the insurance requirements set forth in the other Loan Documents, (ii) satisfactory evidence of flood insurance and (iii) current insurance certificates for all such policies.



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**7.2h Lien Searches.** Receipt by the Bank of Uniform Commercial Code, tax lien and judgment searches satisfactory to the Bank.

**7.2i Business Plan.** Receipt by the Bank of the Borrower's business plan for the Fiscal Year ending December 31, 2009, in form and substance satisfactory to the Bank.

**7.2j Corporate Documents of Loan Parties.** Receipt by the Bank of the following corporate documents for each Loan Party:

(i) a copy of its certificate of incorporation (or certificate of organization, as applicable), certified as true and correct by the Secretary of State of the state of its incorporation or organization, as the case may be, not more than 30 days prior to the date hereof;

(ii) good standing certificates issued by the Secretaries of State of the state where such a Loan Party is incorporated (or organized, as applicable) and each state where such a Loan Party is required to be qualified to do business, each dated not more than 30 days prior to the date hereof;

(iii) resolutions of its board of directors (or other managing body) authorizing the execution of the Loan Documents and the performance by such a Loan Party pursuant thereto, certified by the secretary of such a Loan Party as being true, correct, complete and in effect as of the Closing Date and in form and substance satisfactory to the Bank;

(iv) a copy of its by-laws (or operating agreement, as applicable) and all amendments thereto, certified by the secretary of such a Loan Party as being true, correct, complete and in effect; and

(v) an incumbency certificate for such a Loan Party, showing the names of the officers of such a Loan Party, their respective titles and containing their true signatures.

**7.2k Opinion of Counsel.** Receipt by the Bank of an opinion of counsel to the Loan Parties, Paul A. McGrath, Esquire, addressed to the Bank and in all respects satisfactory to the Bank.

**7.2l No Default Certificates.** On the Closing Date (after giving effect to the Loan or other extension of credit made on the Closing Date) receipt by the Bank of a certificate executed by an Authorized Officer, stating that, as of such date, and no Default or Event of Default exists or will exist after giving effect to the transaction entered into by the Loan Parties under the Loan Documents, no Material Adverse Change has occurred and all representations and warranties made by any Loan Party in the Agreement and the other Loan Documents are true and correct as of such date.

**7.2m Request for Initial Disbursement.** Receipt by the Bank of a Loan Request executed by the Borrower, which Loan Request and other written instruction of the Borrower shall set the manner of disbursement of the Loans to be made and the instructions for the issuance of any Letters of Credit to be issued, on the Closing Date, which such instruction shall set forth complete wire transfer instructions, if applicable.

**7.2n Closing Fee.** Receipt by the Bank of the Closing Fee.

**7.2o Legal Fees.** Receipt by the Bank's counsel, Tucker Arensberg, P.C., of the legal fees and expenses incurred by it in connection with the preparation and negotiation of the Loan Documents and the closing.

**7.2p Closing Instructions.** Receipt by the Bank of closing instructions executed by the Borrower with instructions for all disbursements to be made on the Closing Date or on the third (3<sup>rd</sup>) Business Day following the Closing Date.

**7.2q No Material Adverse Change.** At the time of making the initial Loan or the issuance of the initial Letter of Credit hereunder, no condition, event or development has occurred and is continuing which is, or could reasonably be expected to be, a Material Adverse Change.

**7.2r Material Litigation.** Except as listed on Schedule 4.10 attached hereto, no actions, suits, proceedings or investigations shall be pending or to the Borrower's knowledge threatened against the Borrower or any of its Subsidiaries, or any of their respective businesses, operations, properties, prospects, profits or condition (financial or otherwise), at law or in equity, which, individually or in the aggregate, if adversely determined, could reasonably be expected to cause a Material Adverse Change, or which purport to affect the rights and remedies of the Bank pursuant to the Loan Documents or which purport to restrain or enjoin (either temporarily, preliminarily or permanently) the performance by the Borrower or any of its Subsidiaries of any action contemplated by the Loan Documents.

**7.2s No Material Contingent Obligation.** At the time of making the initial Loan or the issuance of the initial Letter of Credit hereunder, no material contingent obligation, which has not been previously disclosed to and approved by the Bank, has been incurred or assumed by the Borrower or any of its Subsidiaries.

**7.2t Evaluation of Financial Condition.** The Bank shall have completed a satisfactory review and evaluation of the 2007 audit of Borrower and its Subsidiaries and the interim financial statements of the Borrower and its Subsidiaries for the Fiscal Year ending December 31, 2008, and the projected consolidated earnings before interest expense, income tax expense, depreciation expense and amortization expense of the Borrower and its Subsidiaries for the Fiscal Year ending December 31, 2009, together with a satisfactory review and evaluation of the amount and nature of all litigation (including threatened or potential litigation), tax, ERISA, employee retirement benefit, employment and labor matters, environmental and other contingent liabilities of the Borrower and its Subsidiaries.

## **ARTICLE 8. EVENTS OF DEFAULT; REMEDIES**

**8.1 Events of Default.** Each of the following events shall constitute an Event of Default:

**8.1a Nonpayment of Obligations.** The Borrower shall default (i) in any payment of principal of either Note when due and such default in the payment of principal shall have continued for a period of two Business Days after such due date or (ii) in the payment of interest on either Note when due or in the payment of any of the Fees, expenses or other amounts due hereunder or under any of the other Loan Documents when due, and such default in payment of interest, Fees, expenses or other amounts shall have continued for a period of five Business Days after such due date; or the Borrower shall default in the payment when due of any Obligation not evidenced by the Notes and such default in payment shall have continued for a period of five Business Days after such due date.

**8.1b Nonpayment of Other Indebtedness.** Any Loan Party shall (i) default in the payment of any other Indebtedness, which Indebtedness has an aggregate principal outstanding balance of \$100,000 or more, when such payment is due (whether by acceleration or otherwise) and any applicable grace periods with respect thereto have expired, or (ii) default in the performance of any term of any agreement under which any such Indebtedness is created, if the effect of any default described in this item (ii), after the expiration of any grace periods applicable thereto, is to cause such Indebtedness to become, or to permit the holder or holders of such Indebtedness (or any Person on behalf of such holder) to declare such Indebtedness due prior to its stated maturity.

### **8.1c Insolvency, Etc.**

(i) **Involuntary Proceedings.** A proceeding shall have been instituted in a court having jurisdiction seeking a decree or order for relief in respect of the Borrower or any Subsidiary of the Borrower in an involuntary case under the Federal bankruptcy laws, or any other similar applicable Federal or state law, now or hereafter in effect, or for the appointment of a receiver, liquidator, trustee, sequestrator or similar official for the Borrower or any Subsidiary of the Borrower or for a substantial part of their respective property, or for the winding up or liquidation of their respective affairs, and such shall remain undismissed or unstayed and in effect for a period of 60 days.

(ii) **Voluntary Proceedings.** The Borrower or any Subsidiary of the Borrower shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization under the Federal bankruptcy laws, or any other similar applicable Federal or state law now or hereinafter in effect, or shall consent or acquiesce to the filing of any such petition, or shall consent to or acquiesce in the appointment of a receiver, liquidator, trustee, sequestrator or similar official for the Borrower or any Subsidiary of the Borrower or for a substantial part of their respective property, or shall make an assignment for the benefit of creditors, or shall be generally unable to pay their respective debts generally as they become due, or action shall be taken by the Borrower or any Subsidiary of the Borrower in furtherance of any of the foregoing.

**8.1d Dissolution; Cessation of Business.** Any Loan Party shall terminate its existence or cease to exist or permanently cease operations.

### **8.1e ERISA.**

(i) One or more of the following events occur which results in or could result in liability to the Borrower or any other Loan Party:

(A) A Notice of Intent to Terminate any Plan (including any Plan of an ERISA Affiliate) is filed under Section 4041(c) of ERISA;

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(B) Proceedings shall be instituted for the appointment of a trustee by the appropriate United States court to administer any Plan (including any Plan of an ERISA Affiliate);

(C) The PBGC shall institute proceedings to terminate any Plan (including any Plan of an ERISA Affiliate) or to appoint a trustee to administer any such Plan;

(D) A notice assessing Withdrawal Liability in an amount in excess of \$250,000 with respect to any Multiemployer Plan (including any Multiemployer Plan of an ERISA Affiliate) shall have been received by the Borrower or any ERISA Affiliate; or

(ii) Any Governmental Rule is adopted, changed or interpreted by any Governmental Authority or agency or court with respect to or otherwise affecting one or more Plans, Multiemployer Plans or Benefit Arrangements which, in the reasonable opinion of the Bank, could have a material adverse effect on the priority of any lien or security interest in favor of the Bank as established or described in this Agreement or the other Loan Documents.

**8.1f Adverse Judgments.** The aggregate amount of final judgments against the Borrower or any Subsidiary of the Borrower for which no further appellate review exists shall, at any one time, exceed, by \$500,000 or more, the aggregate amount of insurance proceeds available to pay such judgments.

**8.1g Failure to Take Certain Action.** The Borrower shall fail to take measures satisfactory to the Bank, within 30 days after notice to the Borrower by the Bank, with respect to any action, suit, investigation, proceeding or Environmental Claim then pending or threatened against the Borrower or any Subsidiary of the Borrower the outcome of which, in the judgment of the Bank, may be material.

**8.1h Failure to Comply with Loan Documents.**

(i) Failure to Comply with Negative Covenants. The Borrower shall default in the due performance or observance of any covenant contained in Article 6 of this Agreement.

(ii) Failure to Comply with Other Covenants and Loan Documents. Any Loan Party shall default in the due performance or observance of any covenant, condition or provision set forth in this Agreement or any of the other Loan Documents which is not set forth elsewhere in this Section 8.1, and such default described in this item (ii) shall not be remedied for a period of 30 days after the earlier of (A) such default becoming known to any Authorized Officer or (B) notice of such default being delivered by the Bank to the Borrower.

**8.1i Misrepresentation.** Any representation or warranty made by a Loan Party in any Loan Document to which it is a party is untrue in any material respect as of the date made, or any schedule, statement, report, notice, certificate or other writing furnished by such a Loan Party to the Bank is untrue in any material respect on the date as of which the facts set forth therein are stated or certified.

**8.1j Invalidity, Etc. of Loan Documents.** Any material provision of this Agreement or any of the other Loan Documents shall at any time for any reason cease to be valid and binding on a Loan Party a party thereto; any Loan Document shall be declared to be null and void, or the validity or enforceability of any Loan Document shall be contested by a Loan Party a party to any such Loan Document, or a Loan Party shall deny that it has any or further liability or obligation under any Loan Document to which it is a party.

**8.1k Material Adverse Change.** The occurrence of any Material Adverse Change.

**8.1l Change of Control.** (i) any Person or group of Persons (within the meaning of Sections 13(a) or 14(a) of the Securities Exchange Act of 1934, as amended), or the current officers or directors of the Borrower, shall have acquired beneficial ownership of (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under said Act) 30% or more of the voting capital stock of the Borrower; or

(ii) within a period of 12 consecutive calendar months, individuals who were directors of the Borrower on the first day of such period shall cease to constitute a majority of the board of directors of the Borrower.

**8.2 Remedies.**

**8.2a Events of Default Under Section 8.1c.** Upon the occurrence of an Event of Default set forth in Section 8.1c, the Revolving Credit Commitment shall automatically terminate and the Notes, interest accrued thereon and all other Obligations of the Borrower to the Bank shall become immediately due and payable, without the necessity of demand, presentation, protest, notice of dishonor or notice of default, all of which are hereby expressly waived by the Borrower. Thereafter, the Bank shall have no further obligation to make any additional Loans or other extensions of credit hereunder. In addition, during any 60-day period described in Section 8.1c(i), the Bank shall not have any obligation to make additional Loans hereunder.

**8.2b Remaining Events of Default.** Upon the occurrence and during the continuance of any Event of Default set forth in Sections 8.1a, 8.1b, 8.1d, 8.1e, 8.1f, 8.1g, 8.1h, 8.1i, 8.1j, 8.1k or 8.1l the Bank shall have no further obligation to make any additional Loans hereunder and the Bank may, at its option, declare the Revolving Credit Commitment terminated and the Notes, interest accrued thereon and all other Obligations of the Borrower to the Bank to be due and payable, without the necessity of demand, presentation, protest, notice of dishonor or notice of default, all of which are hereby expressly waived by the Borrower. Thereafter, the Bank shall have no further obligation to make any additional Loans hereunder.

**8.2c Letter of Credit Amount.** Upon the occurrence of any Event of Default described in the foregoing Section 8.1c or upon the declaration by the Bank of any other Event of Default and the termination of the Revolving Credit Commitment, the obligation of the Bank to issue or amend Letters of Credit shall terminate, the Bank may provide written demand to any beneficiary of a Letter of Credit to present a draft against such Letter of Credit, and an amount equal to the maximum amount which may at any time be drawn under the Letters of Credit then outstanding (whether or not any beneficiary of such Letters of Credit shall have presented, or shall be entitled at such time to present, the drafts or other documents required to draw under the Letters of Credit) shall automatically become immediately due and payable, without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by the Borrower. So long as the Letters of Credit shall remain outstanding, any amounts declared due pursuant to this Section 8.2c with respect to the outstanding Letters of Credit when received by the Bank shall be deposited and held by the Bank in an interest bearing account denominated in the name of the Bank over which the Bank shall have sole dominion and control of withdrawals (the "Cash Collateral Account") as cash collateral for the obligation of the Borrower to reimburse the Bank in the event of any drawing under the Letters of Credit and upon any drawing under such Letters of Credit in respect of which the Bank has deposited in the Cash Collateral Account any amounts declared due pursuant to this Section 8.2c, the Bank shall apply such amounts held by the Bank to reimburse the Bank for the amount of such drawing. In the event that any Letter of Credit in respect of which the Bank has deposited in the Cash Collateral Account any amounts described above is cancelled or expires or in the event of any reduction in the maximum amount available at any time for drawing under the Letters of Credit outstanding, the Bank shall apply the amount then in the Cash Collateral Account designated to reimburse the Bank for any drawings under the Letters of Credit less the maximum amount available at any time for drawing under the Letters of Credit outstanding immediately after such cancellation, expiration or reduction, if any, to the payment in full of the outstanding Obligations, and second, to the payment of any excess, to the Borrower.

**8.2d Additional Remedies.** In addition to the remedies set forth above, upon the occurrence of any Event of Default, the Bank shall have all of the rights and remedies granted to it under this Agreement and the other Loan Documents and all other rights and remedies granted to creditors by law, in equity, or otherwise.

**8.2e Exercise of Remedies; Remedies Cumulative.** No delay on the part of the Bank or failure by the Bank to exercise any power, right or remedy under this Agreement or any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any power, right or remedy or any abandonment or discontinuance of steps to enforce such right, power or remedy preclude other or further exercises thereof, or the exercise of any other power, right or remedy. The rights and remedies in this Agreement and the other Loan Documents are cumulative and not exclusive of any rights or remedies (including, without limitation, the right of specific performance) which the Bank would otherwise have.

## **ARTICLE 9. GENERAL PROVISIONS**

**9.1 Amendments and Waivers.** The Bank and the Borrower may from time to time enter into amendments, extensions, supplements and replacements to and of this Agreement and the other Loan Documents to which they are parties, and the Bank may from time to time waive compliance with a provision of any of such documents. No amendment, extension, supplement, replacement or waiver shall be effective unless it is in writing and is signed by the Bank and the Borrower. Each waiver shall be effective only for the specific instance and for the specific purpose for which it is given. All of the rights of the Bank set forth in this Agreement or in the other Loan Documents shall apply to any amendment, extension, supplement and replacement to and of this Agreement and the other Loan Documents.

**9.2 Taxes.** The Borrower shall pay any and all stamp, document, transfer and recording taxes, filing fees and similar impositions payable or hereafter determined by the Bank to be payable in connection with this Agreement, the other Loan Documents and any other documents, instruments and transactions pursuant to or in connection with any of the Loan Documents. The Borrower agrees to save the Bank harmless from and against any and all present and future claims or liabilities with respect to, or resulting from, any delay in paying or failure to pay any such taxes or similar impositions. The obligations of the Borrower pursuant to this Section 9.2 shall survive the termination of this Agreement and the repayment of the Obligations.

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**9.3 Expenses.** The Borrower shall pay:

(i) All reasonable costs and expenses of the Bank (including without limitation the reasonable fees and disbursements of the Bank's counsel, which may include the Bank's in-house counsel) in connection with the preparation, execution and delivery of this Agreement and the other Loan Documents and any and all other documents and instruments prepared in connection herewith and therewith, including but not limited to all amendments, waivers, consents and other documents and instruments prepared or entered into from time to time, including after the Closing Date;

(ii) All reasonable costs and expenses of the Bank (including without limitation the reasonable fees and disbursements of the Bank's counsel) in connection with (A) the enforcement of this Agreement and the other Loan Documents arising pursuant to a breach by any Loan Party of any of the terms, conditions, representations, warranties or covenants of any Loan Document to which he or it is a party, and (B) defending or prosecuting any actions, suits or proceedings relating to any of the Loan Documents; and

(iii) All reasonable costs and expenses of the Bank (including without limitation the reasonable fees and disbursements of the Bank's counsel, consultants and contractors) in connection with environmental investigation, testing or other due diligence (A) contemplated by this Agreement and the other Loan Documents, and (B) following the occurrence of an Event of Default.

All of such costs and expenses shall be payable by the Borrower to the Bank upon demand or as otherwise agreed upon by the Bank and the Borrower, and shall constitute Obligations under this Agreement. The Borrower's obligation to pay such costs and expenses shall survive the termination of this Agreement and the repayment of the Obligations.

**9.4 Notices.**

**9.4a Notice to the Borrower.** All notices required to be delivered to the Borrower pursuant to this Agreement shall be in writing and shall be sent to the following address, by hand delivery, recognized national overnight courier service, telecopier or by the United States certified mail, return receipt requested:

Universal Stainless & Alloy Products, Inc.  
600 Mayer Street  
Bridgeville, Pennsylvania 15107  
Attention: Richard M. Ubinger  
Telecopier: 412-257-7640

**9.4b Notice to the Bank.** All notices required to be delivered to the Bank pursuant to this Agreement shall be in writing and shall be sent to the following address, by hand delivery, recognized national overnight courier service, telecopier or by United States certified mail, return receipt requested:

PNC Bank, National Association  
One PNC Plaza, 2nd Floor  
249 Fifth Avenue  
Pittsburgh, PA 15222  
Attention: Louis McLinden, Vice President  
Corporate Finance Group  
Telecopier: 412-762-6484

**9.4c Effectiveness of Notices.** All such notices shall be effective three days after mailing, or on the date of telecopy transmission or when received, whichever is earlier. The Borrower and the Bank may each change the address for service of notice upon it by a notice in writing to the other party hereto.

**9.5 Participations.**

**9.5a Sale of Participations.** The Bank may, in the ordinary course of its commercial banking business and in accordance with applicable law, and without the consent of the Borrower, at any time sell to one or more Participants (which Participants may be Affiliates of the Bank) Participations in the Revolving Credit Commitment, the Loans, the Notes, the Letters of Credit and the other interest of the Bank hereunder provided that each such Participation shall be in an initial minimum amount of \$5,000,000. In the event of any such sale of a Participation, the Bank's obligations under this Agreement to the Borrower shall remain unchanged, the Bank shall remain solely responsible for its performance under this Agreement, the Bank shall remain the holder of the Notes made payable to it for all purposes under this Agreement and the Borrower shall continue to deal solely and directly with the Bank in connection with the Bank's rights and obligations under this Agreement and the other Loan Documents.

**9.5b Right of Setoff.** The Borrower agrees that if amounts outstanding under this Agreement and the Notes are due and unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have, to the extent permitted by applicable law, the right of setoff in respect of its Participation in amounts owing under this Agreement and the Notes to the same extent as if the amount of its Participation were owing directly to it as a lender under this Agreement or the Notes.

**9.5c Withholding of Income Taxes.** If any Participant or purchasing lender is not a United States person within the meaning of Section 7701(a)(30) of the Internal Revenue Code such Participant or purchasing lender shall promptly (but in any event prior to the initial payment of interest hereunder) deliver to the Borrower and the Bank two executed copies of (i) Internal Revenue Service Form W-8BEN or any successor form specifying the applicable tax treaty between the United States and the jurisdiction of such Participant's or purchasing lender's domicile that provides for the exemption from withholding on interest payments to such Participant or purchasing lender, (ii) Internal Revenue Service Form W-8ECI or any successor form evidencing that the income to be received by such Participant or purchasing lender hereunder is effectively connected with the conduct of a trade or business in the United States or (iii) other evidence satisfactory to the Borrower and the Bank that such Participant or purchasing lender is exempt from United States income tax withholding with respect to such income. Such Participant or purchasing lender shall amend or supplement any such form or evidence as required to insure that it is accurate, complete and non-misleading at all times. In addition, from time to time upon the reasonable request of Borrower and the Bank, each Participant or purchasing lender shall complete and provide Borrower and the Bank with such forms, certificates or other documents as may be reasonably necessary to allow Borrower or the Bank, as applicable, to make any payment under this Agreement or the other Loan Documents without any withholding for or on the account of any Tax pursuant to Section 2.5b hereof.

**9.6 Successors and Assigns.** This Agreement shall be binding upon the Borrower and the Bank and their respective successors and assigns, and shall inure to the benefit of the Borrower, the Bank and their respective successors and assigns; provided, however, that the Borrower shall not assign its rights or duties hereunder or under any of the other Loan Documents without the prior written consent of the Bank.

**9.7 Confidentiality.** The Bank shall keep confidential and not disclose to any Person, other than its directors, officers, employees, Affiliates and agents, and to actual or potential Participants, all non-public information concerning the Borrower and the Borrower's Affiliates which comes into the Bank's possession during the term hereof. Notwithstanding the foregoing, the Bank may disclose information concerning the Loan Parties (i) in accordance with normal banking practices and the Bank's policies concerning disclosure of such information, (ii) to any Participant or potential Participant, (iii) pursuant to what the Bank believes to be the lawful requirements or request of any Governmental Authority regulating banks or banking, (iv) as required by any Governmental Rule, judicial process or subpoena, and (v) to its attorneys, accountants and auditors.

**9.8 Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or enforceability without invalidating the remaining portions hereof in such jurisdiction or affecting the validity or enforceability of such or any other provision hereof in any other jurisdiction.

**9.9 Interest Limitation.** Notwithstanding anything to the contrary herein contained, the total liability of the Borrower for payment of interest pursuant hereto shall not exceed the maximum amount, if any, of such interest permitted by any applicable Governmental Rule to be contracted for, charged or received, and if any payment by the Borrower to the Bank includes interest in excess of such a maximum amount, the Bank shall apply such excess to the reduction of the unpaid principal amount due pursuant hereto, or if none is due, such excess shall be refunded to the Borrower; provided that, to the extent permitted by applicable Governmental Rules, in the event the interest is not collected, is applied to principal or is refunded pursuant to this sentence and interest thereafter payable pursuant hereto shall be less than such maximum amount, then such interest thereafter so payable shall be increased up to such maximum amount to the extent necessary to recover the amount of interest, if any, theretofore uncollected, applied to principal or refunded pursuant to this sentence. Any such application or refund shall not cure or waive any Default or Event of Default. In determining whether or not any interest payable under this Agreement exceeds the highest rate permitted by law, any non-principal payment (except payments specifically stated in this Agreement to be "interest") shall be deemed, to the extent permitted by applicable law, to be an expense, fee, premium or penalty rather than interest. To the extent permitted by applicable law, the Borrower hereby waives any provision of law which renders any provision hereof prohibited, unenforceable or not authorized in any respect.

**9.10 Survival.** Except as otherwise provided in Sections 4.20, 5.13, 9.2 and 9.3, all representations, warranties, covenants and agreements of the Borrower contained herein or in the other Loan Documents or made in writing in connection herewith shall survive the issuance of the Notes and shall continue in full force and effect so long as the Borrower may borrow hereunder and so long thereafter until all of the Obligations are paid in full.

**9.11 GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, WITHOUT REGARD TO THE PRINCIPLES THEREOF REGARDING CONFLICT OF LAWS, EXCEPTING APPLICABLE FEDERAL LAW AND EXCEPT ONLY TO THE EXTENT PRECLUDED BY THE MANDATORY APPLICATION OF THE LAW OF ANOTHER JURISDICTION.**

**9.12 FORUM.** THE PARTIES HERETO AGREE THAT ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS TO WHICH THE BORROWER IS A PARTY MAY BE COMMENCED IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA OR IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF PENNSYLVANIA, AND THE PARTIES HERETO AGREE THAT A SUMMONS AND COMPLAINT COMMENCING AN ACTION OR PROCEEDING IN EITHER OF SUCH COURTS SHALL BE PROPERLY SERVED AND SHALL CONFER PERSONAL JURISDICTION IF SERVED PERSONALLY OR BY CERTIFIED MAIL TO THE PARTIES AT THEIR ADDRESSES SET FORTH IN SECTION 9.4, OR AS OTHERWISE PROVIDED UNDER THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA. FURTHER, THE BORROWER HEREBY SPECIFICALLY CONSENTS TO THE PERSONAL JURISDICTION OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA AND THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF PENNSYLVANIA AND WAIVES AND HEREBY ACKNOWLEDGES THAT IT IS ESTOPPED FROM RAISING ANY OBJECTION BASED ON FORUM NON CONVENIENS, ANY CLAIM THAT EITHER SUCH COURT LACKS PROPER VENUE OR ANY OBJECTION THAT EITHER SUCH COURT LACKS PERSONAL JURISDICTION OVER THE BORROWER SO AS TO PROHIBIT EITHER SUCH COURT FROM ADJUDICATING ANY ISSUES RAISED IN A COMPLAINT FILED WITH EITHER SUCH COURT AGAINST THE BORROWER BY THE BANK CONCERNING THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS OR PAYMENT TO THE BANK. THE BORROWER HEREBY ACKNOWLEDGES AND AGREES THAT THE CHOICE OF FORUM CONTAINED IN THIS SECTION 9.12 SHALL NOT BE DEEMED TO PRECLUDE THE ENFORCEMENT OF ANY JUDGMENT OBTAINED IN ANY FORUM OR THE TAKING OF ANY ACTION UNDER THE LOAN DOCUMENTS TO ENFORCE THE SAME IN ANY APPROPRIATE JURISDICTION.

**9.13 Non-Business Days.** Whenever any payment hereunder or under the Notes is due and payable on a day which is not a Business Day, such payment may be made on the next succeeding Business Day (except as specifically required by the terms of this Agreement), and such extension of time shall in each such case be included in computing interest in connection with such payment.

**9.14 Integration.** This Agreement, together with the other Loan Documents, constitutes the entire agreement between the parties hereto relating to this financing transaction and it supersedes all prior understandings and agreements, whether written or oral, between the parties hereto relating to the transactions provided for herein.

**9.15 Headings.** Article, Section and other headings used in this Agreement are intended for convenience only and shall not affect the meaning or construction of this Agreement.

**9.16 Counterparts; Effectiveness.** This Agreement and any amendment hereto may be executed in several counterparts and by each party on a separate counterpart, each of which, when so executed and delivered, shall be an original, but all of which together shall constitute but one and the same instrument. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart signed by the other party against whom enforcement is sought. This Agreement shall become binding when the parties have delivered (which delivery may be by telecopier) at least one executed counterpart hereof or of the signature page hereto.

**9.17 WAIVER OF JURY TRIAL.** IN ORDER TO EXPEDITE THE RESOLUTION OF ANY DISPUTES WHICH MAY ARISE UNDER THIS AGREEMENT OR UNDER ANY OTHER LOAN DOCUMENT TO WHICH THE BORROWER IS A PARTY, AND IN LIGHT OF THE COMPLEXITY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, THE PARTIES HERETO WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND OR NATURE IN ANY COURT TO WHICH THEY MAY BOTH BE PARTIES, WHETHER ARISING OUT OF, UNDER, OR BY REASON OF THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR ANY ASSIGNMENT OR OTHER TRANSACTION CONTEMPLATED HEREBY OR BY REASON OF ANY OTHER CAUSE OR DISPUTE WHATSOEVER BETWEEN THEM OF ANY KIND OR NATURE. BOTH PARTIES ACKNOWLEDGE THAT THIS WAIVER OF JURY TRIAL HAS BEEN SPECIFICALLY NEGOTIATED AS A PART OF THIS AGREEMENT.

**9.18 General Indemnity**

**9.18a Indemnity Obligation.** In addition to all the rights and remedies available to the Bank at law or in equity, the Borrower hereby agrees to defend and indemnify the Bank and its successors and permitted assigns and its Affiliates, shareholders, officers, directors, employees, agents, and representatives (collectively, the "Indemnified Persons") and save and hold each of them harmless against and pay on behalf of, or reimburse each of them for, any loss (including diminutions in value and consequential damages), liability, demand, suit, claim, action, cause of action, judgment, cost, damage, debt, obligation, deficiency, any Tax imposed with respect to other indemnity payments made under this Agreement (but not Excluded Taxes other than Taxes imposed on the net income or capital of the Bank with respect to another indemnity payment made hereunder), penalty, fine, charge and expense, whether or not arising

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out of any claims by or on behalf of the Borrower or any other Person, including interest, penalties, reasonable lawyers' fees and expenses and all amounts paid in investigation, defense or settlement of any of the foregoing (collectively, the "Losses") which any Indemnified Persons may suffer, sustain, or become subject to, as a result of, in connection with, relating or incidental to, or by virtue of:

(a) any misrepresentation in or omission from any of the representations, warranties, statements, schedules and exhibits in or to this Agreement or any certificate or other instrument or document furnished to the Bank by the Borrower or any Subsidiary of the Borrower pursuant to this Agreement or any other Loan Document;

(b) any non-fulfillment or breach of any covenant or agreement on the part of the Borrower or any Subsidiary of the Borrower under this Agreement or any other Loan Document; or

(c) any claim whenever made, relating in any way to the Borrower or any Subsidiary and any claim, whenever made, arising out of, relating to, resulting from or caused by any transaction, status, event, condition, occurrence or situation relating to, arising out of or in connection with the execution, performance and delivery by the Borrower or any Subsidiary of the Borrower or any Subsidiary of this Agreement and the other Loan Documents and agreements contemplated hereby or (ii) any actions taken by or omitted to be taken by any of the Indemnified Persons in connection with this Agreement or any of the other Loan Documents and agreements contemplated hereby.

The obligations under this Section shall not extend to Losses of an Indemnified Person arising because of the gross negligence or willful misconduct of such Indemnified Person.

**9.19 Timing.** Upon determination that an indemnification payment described in Section 9.19a is payable to an Indemnified Party, the indemnification of any Indemnified Person by the Borrower pursuant to this Section 9.19 shall be effected by wire transfer of immediately available funds from the Borrower to an account designated by the Indemnified Person within 15 days after determination of the requirement for indemnification.

**9.20 Bank Not Liable.** The Borrower agrees that the Bank shall not be liable to the Borrower for any Losses which the Borrower may suffer, sustain or become subject to as a result of, in connection with, relating or incidental to or by virtue of any action taken or not taken or anything done or not done by the Bank under or in respect of this Agreement or any Loan or Letter of Credit, save and except for any Losses which arise out of, or result from, the negligence, fraud or willful misconduct of the Bank, provided that the Bank shall not be liable for any special, consequential or punitive damages under any circumstances.

**9.21 Termination of 2005 Credit Agreement.** Upon fulfillment of the terms and conditions set forth in Section 7.2 hereof, the Third Amended and Restated Credit Agreement dated as of June 24, 2005, as amended, by and between the Borrower and the Bank, shall be terminated, all obligations of the Borrower outstanding thereunder shall become immediately due and payable and the Bank is hereby released and discharged of any further commitment to lend to the Borrower under the terms of such credit agreement. The Borrower authorizes the Bank to bill the Borrower for any outstanding fees and charges under such credit agreement and related loan documents in the ordinary course; and the Borrower shall pay such fees and charges upon presentation of a bill from the Bank. Upon payment of all such outstanding fees, charges and obligations, the Bank shall promptly release the outstanding financing statements and mortgages recorded of record to secure such obligations.

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IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have caused this Credit Agreement to be executed by their respective duly authorized officers as of the date first written above.

ATTEST/WITNESS

By: /s/ Paul A. McGrath  
Name: Paul A. McGrath  
Title: Vice President Administration,  
General Counsel and Secretary

UNIVERSAL STAINLESS & ALLOY PRODUCTS, INC.

By: /s/ Richard M. Ubinger (SEAL)  
Name: Richard M. Ubinger  
Title: Vice President Finance, Chief  
Financial Officer and Treasurer

PNC BANK, NATIONAL ASSOCIATION

By: /s/ Louis McLinden (SEAL)  
Name: Louis McLinden  
Title: Vice President

**EMPLOYMENT AGREEMENT**

THIS AGREEMENT made as of the 10<sup>th</sup> day of February 2009, by and between UNIVERSAL STAINLESS & ALLOY PRODUCTS, INC., a Delaware corporation (the "Company"), and William W. Beible Jr. (the "Executive").

**WITNESSETH:**

In consideration of the covenants and agreements herein contained, and intending to be legally bound hereby, the Company and Executive agree as follows:

**Article 1. - Employment**

1.1. **Employment.** The Company agrees to employ Executive, and Executive agrees to serve the Company, for the period stated in Article 2 hereof (the "Term of Employment") and upon the other terms and conditions herein provided.

1.2. **Position and Responsibilities.** The Company employs Executive, and Executive agrees to serve as Senior Vice President of Operations, of the Company and to accept such other responsibilities as may be assigned to Executive by the Company from time to time during the Term of Employment.

1.3. **Duties.** During the Term of Employment, Executive shall devote all of his business time, attention, skill and efforts to the faithful performance of his duties hereunder.

**Article 2. - Term**

The Term of Employment shall commence as of the 11<sup>th</sup> day of February 2009 (the "Effective Date"), and shall continue until the 10<sup>th</sup> day of February 2010 (the "Initial Term"). Thereafter, subject to the termination provisions of this Agreement, this Agreement will be automatically extended for successive one year terms unless either party provides written notice to the other party on or before November 1<sup>st</sup> of any year, of his or its election not to extend the term of this Agreement.

**Article 3. - Compensation**

3.1. **Salary.** As compensation to the Executive for the performance of services hereunder, the Company shall pay to the Executive a base annual salary (the "Salary") of \$230,000.00. Installments of the Salary shall be paid to the Executive in accordance with the standard procedure of the Company, which at the present time is once every two weeks. During the period of this Agreement, Executive's salary shall be reviewed at least annually and may be increased if the Board of Directors of the Company (the "Board") acting after approval of the Compensation Committee (the "Compensation Committee"), determines that an increase is appropriate on the basis of the types of factors it generally takes into account in increasing the salaries of employees similarly situated in the Company.

3.2. **Reimbursement of Expenses.** The Company will reimburse the Executive for those customary and necessary business expenses incurred by him in the performance of his duties and activities on behalf of the Company. Except as provided in this Agreement, such expenses will be reimbursed only on presentation by the Executive of appropriate documentation to substantiate such expenses pursuant to the policies and procedures of the Company governing reimbursement of business expenses to its executives.

3.3. **Participation in Plans.** The Executive shall be entitled to participate in any life, medical, dental, health, hospitalization, travel, accident and/or disability insurance plans and in any sick leave and/or salary continuation plan, vacation (which shall not be less than three (3) weeks per year), holiday pay, retirement or employee benefit plan or program generally offered by the Company to its salaried employees. In addition, Executive shall be entitled to participate in the variable incentive compensation plan and the perquisites described on Schedule A attached hereto.

**Article 4. - Termination of Employment**

4.1. **Definitions.** For the purposes hereof:

(a) "**Disability**" shall be deemed to have occurred when the Executive is eligible, due to a health condition, to collect benefits under the Company's short term disability plan and has been determined by the Board of Directors to be unable to perform substantially the duties associated with the Executives position for a period of three months.

(b) "**Cause**" shall mean any of the following: (i) Executive's personal dishonesty or willful misconduct; (ii) Executive's willful violation of any law or material rule or regulation, provided that such violation is demonstrably injurious to the assets, operations or business prospects of the Company; (iii) the conversion or embezzlement for the personal benefit of the Executive of corporate funds or property or a material business opportunity of the Company; (iv) the misuse by the Executive for his personal benefit of any trade secrets or other information of the Company in violation of the provisions of Article 7 of this Agreement; or (v) Executive's material breach of any other provision of this Agreement which is not cured within thirty (30) days of receipt of notice of such breach from Company.

(c) "**Good Reason**" shall, absent the Executive's consent to such action, mean the occurrence of any one of the following: (i) following a Change of Control, the removal of the Executive as Senior Vice President of Operations, (by reason other than death, Disability or Cause); (ii) any breach by the Company of a material obligation under this Agreement; (iii) a substantial and material alteration in the nature or status of Executive's duties and responsibilities that renders the Executive's position to be of substantially less responsibility or scope; (iv) a material reduction by the Company in the Executive's Salary, except for proportional across-the-board salary reductions similarly affecting all senior executives of the Company; or (v) any material reduction by the Company of the benefits, taken as a whole, enjoyed by the Executive on the date of this Agreement under any savings, life insurance, medical, health and accident, disability or other employee welfare benefit plans or programs, including vacation programs, provided that this paragraph (v) shall not apply to any proportional across the board reduction or action similarly affecting all senior executives of the Company.

Notwithstanding the foregoing, no event of "Good Reason" shall be deemed to have occurred unless Executive provides to the Chairman of the Compensation Committee of the Board of Directors of the Company written notice of the facts and circumstances which Executive believes constitutes Good Reason under this Section 4.1(c) within 30 days of such initial occurrence and such facts and circumstances are not corrected or otherwise cured by the Company within thirty (30) days of receipt thereof. Termination by Executive for Good Reason must occur within 90 days of the initial occurrence of the Good Reason event.

For purposes of this Agreement, a Change of Control shall be deemed to have occurred on the earlier of (x) if, in any transaction or series of related transactions consummated in a ninety day period, more than fifty percent (50%) of the then outstanding voting common stock of the Company is sold to a person or group; (y) a merger or consolidation of the Company and another entity in which the Company is not the surviving corporation or in which more than fifty percent (50%) of the equity ownership of the Company changes, or (z) the sale of 50% or more of all of the assets of the Company.

(d) "**Notice of Termination**" shall mean written notice which shall indicate the specific termination or resignation provisions in this Agreement relied upon and shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for such termination or resignation under the provision so indicated and the Company shall submit to the Executive a certified statement signed by the Chairman of the Compensation Committee of the Board of Directors of the Company approving such termination in the case of a Termination by the Company for Cause or Without Cause.

(e) "**Date of Termination**" shall mean the date specified in the Notice of Termination as the effective date the Executive's employment is terminated for any reason or the Executive's effective date of resignation, which ever is earlier.

#### **Article 5. - Compensation Upon Termination**

5.1. **Death.** If the Executive's employment hereunder terminates by reason of his death, his beneficiaries shall be entitled to receive from the Company such amounts as are then provided pursuant to plans, programs or arrangements currently in effect or as approved from time to time by the Board of Directors.

5.2. **Disability.** If the Executive's employment hereunder terminates by reason of his Disability, the Executive shall be entitled to receive such amounts as are then provided pursuant to Company's then existing disability plans, programs or arrangements. Notwithstanding any provisions herein to the contrary, the Executive shall be entitled to receive all benefits to which the Executive is entitled as a terminated employee under the terms of any of the Company's qualified employee benefit plans and any other plan, program or arrangement relating to retirement or other benefits including, without limitation, any employee stock ownership plan or any plan now in effect or which is established (with approval of the Board of Directors) as a supplement to any of the forenamed plans, except as otherwise provided in such plans as a result of the Executive's termination of employment.

5.3. **Cause.** If the Executive's employment hereunder is terminated by the Company for Cause, the Company shall pay to the Executive his full base Salary through the Date of Termination but at a rate no greater than that in effect at the time Notice of Termination is given, and the Company shall have no further obligations to the Executive under this Agreement.

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5.4. By the Company Without Cause or by the Executive by Resignation for Good Reason. If the Executive's employment hereunder is terminated by the Company without Cause or is terminated by the Executive pursuant to his resignation for Good Reason, then the Executive shall be entitled to the benefits provided below, which shall constitute complete satisfaction of the obligations of the Company to the Executive under this Agreement:

(a) The Company shall pay the Executive his full annual base Salary through the Date of Termination at the rate in effect at the time Notice of Termination is given.

(b) Subsequent to the Date of Termination, the Company shall pay as severance pay to the Executive, a lump sum severance payment equal to twelve months of the Executive's base monthly Salary at the rate in effect at the time Notice of Termination is given. Such payment shall be less applicable taxes and mandatory deductions, paid on or before the 30<sup>th</sup> calendar day after the Date of Termination.

(c) The Company will provide health care benefits under the group policies covering the other corporate employees covering Medical, Dental, Vision and Prescription Drugs, subject to any changes made to the group policies, as provided prior to the Date of Termination for the Executive and eligible dependents, that were covered prior to any Date of Termination, for a period of twelve months at no cost to the Executive. This period will not reduce the eligible COBRA period.

(d) The Executive shall not be required to mitigate the amount of any payments provided for in this Agreement by seeking other employment or otherwise, nor shall the amount of any payment provided for in this Agreement be reduced by any compensation earned by the Executive as the result of employment by another employer, or otherwise.

(e) Notwithstanding any provisions herein to the contrary, the Executive shall be entitled to receive all benefits to which the Executive is entitled as a terminated employee under the terms of any of the Company's qualified employee benefit plans and any other plan, program or arrangement relating to retirement or other benefits including, without limitation, any employee stock ownership plan or any plan now in effect or which is established (with approval of the Board of Directors) as a supplement to any of the forenamed plans, except as otherwise provided in such plans as a result of the Executive's termination of employment.

#### **Article 6. - Duties of Executive After Termination of Employment**

Following any termination of Executive's employment and for a period of ninety (90) days thereafter, the Executive shall fully cooperate with the Company in all matters relating to the winding up and orderly transfer of the Executive's work on behalf of the Company. Not later than the effective date of any termination of the employment, the Executive will immediately deliver to the Company any and all of the Company's property of any kind or nature whatsoever in the Executive's possession, custody or control, including, without limitation any and all Confidential Information as that term is defined in Section 7 of this Agreement.

#### **Article 7. - Confidential Information; Invention Assignment**

7.1. Confidential Relationship. Executive understands and agrees that all company manuals, company policies, marketing plans and surveys, product designs, schematics, specifications and product location and installation data, formulae, processes, methods, machines, compositions, customer information, ideas, inventions, financial information and plans of the Company and all records, correspondence, files, customer lists, data and other information pertaining to or concerning the Company, its principals, vendors and customers (collectively the "**Confidential Information**") contain valuable confidential information that is owned by the Company, and, therefore, that during the period of employment hereunder and at all times thereafter, Executive shall not utilize such Confidential Information for his own benefit or for the benefit of any person or entity other than the Company, nor shall he divulge or communicate any such Confidential Information to any person or entity without the express authorization of the Company. Confidential Information shall not include any information that is or becomes generally available to the public other than as a result of a disclosure by Executive. The Executive agrees that, on the termination of his employment, he will immediately surrender to the Company any and all Confidential Information in his possession pertaining to the Company and its business.

7.2. Assignment of Rights. All inventions, discoveries, designs, developments, technology, computer programs, writings and reports that are made or conceived of by the Executive in the course of his employment with the Company, whether or not patentable or copyrightable, shall become and remain the sole property of the Company without additional compensation to Executive. The Executive recognizes that all such works shall be considered works-for-hire and hereby transfers and assigns any right, title, copyright and interest that Executive acquires in such works to the Company and will, from time to time, give the Company all reasonable assistance, execute all papers and do all things that may reasonably be required to protect and preserve the rights of the Company in such works.

7.3. No Breach of Other Obligations. The Executive represents that, in the course of performing services for the Company, he will not breach any agreement he may have with others with respect to confidential information, and will not bring to the Company or use in any way any materials or documents obtained from others under an agreement of confidentiality.

**Article 8. - Source of Payments**

All payments provided for under this Agreement shall be paid in cash from the general funds of the Company and no special or separate fund shall be established and no other segregation of assets shall be made to assure payment. No trust or fiduciary relationship with respect to payments shall be deemed created hereby and, to the extent that any person acquires a right to receive payments hereunder, such right shall be no greater than the rights of a general creditor of the Company.

**Article 9. - Miscellaneous**

9.1. Indulgences, Etc. Neither the failure nor any delay on the part of either party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence.

9.2. Indemnification. The company extends to Executive all rights and protection with regards indemnification and hold harmless provisions, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, as provided for in the Company's by-laws as amended from time including any Insurance maintained by the Company that may be applicable to any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding") by reason of the fact that he, or a person for whom he is the legal representative, is or was an officer of the Corporation, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by Executive.

9.3. Notices. All notices or communications hereunder shall be in writing, addressed as follows:

To the Company:

Dennis M. Oates, President and CEO  
Universal Stainless & Alloy Products, Inc.  
600 Mayer Street  
Bridgeville, PA 15017

To the Executive:

William W. Beible Jr.

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Any such notice or communication shall be sent by certified or registered mail, return receipt requested, postage prepaid, addressed as above (or to such other address as such party may designate in writing from time to time), and the actual date of receipt, as shown by the receipt therefore, shall determine the time at which notice was given.

9.4. Assignment; Agreement. This Agreement shall be binding upon and inure to the benefit of the heirs and personal representatives of the Executive and the successors and assigns of the Company, but neither this Agreement nor any rights hereunder shall be assignable or otherwise subject to hypothecation by the Executive.

9.5. Entire Agreement; Amendment. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. This Agreement may be amended or any provision hereof waived at any time only by written agreement of the parties hereto.

9.6. Governing Law. This Agreement and its validity, interpretation, performance and enforcement shall be governed by the laws of the Commonwealth of Pennsylvania, other than the conflict of laws provisions of such laws.

9.7. Severability. If, for any reason, any provision of this Agreement is held invalid, such invalidity shall not affect any other provision of this Agreement not held so invalid, and each such other provision shall to the full extent consistent with law continue in full force and effect. If any provision of this Agreement shall be held invalid in part, such invalidity shall in no way affect the remainder of such provision that is not held so invalid, and the remainder of such provision, together with all other provisions of this Agreement, shall to the full extent consistent with law continue in full force and effect.

9.8. **Headings.** The Article and Section headings in this Agreement are for convenience of reference only; they form no part of this Agreement and shall not affect its interpretation.

9.9. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Company and the Executive have duly executed this Agreement as of the day and year first written above.

**UNIVERSAL STAINLESS & ALLOY PRODUCTS, INC.**

By: /s/ Dennis M. Oates  
Dennis M. Oates

Title: President and CEO

**EXECUTIVE**

/s/ William W. Beible Jr.  
William W. Beible Jr.

**Schedule A  
Incentive Compensation And Perquisites**

1. **Incentive Compensation.** Executive will be entitled to participate in the Company's variable incentive compensation plan. The maximum award under such plan for the Executive shall be 100% of his annual base Salary. A guaranteed minimum incentive compensation award for 2009 based on continued employment for Executive shall be \$135,000.00. The payments of the guaranteed variable incentive compensation shall be subject to the terms and conditions of variable incentive compensation plan.

2. **Stock Options.** Executive shall be granted 15,000 stock options pursuant to the Company's stock option plan. The exercise price of the stock options will be the closing price of the Company's common stock on the Effective Date. One forth of the stock options will vest on each of the first four anniversaries of the Effective Date. All stock options shall be subject to the terms and conditions of a separate stock option agreement to be entered into by Executive and the Company.

3. **Automobile.** The Company shall provide the Executive with a monthly car allowance of \$550.00 per month.

4. **Moving Expenses.** A moving and relocation allowance will be provided as follows: \$100,000.00 (subject to mandatory withholdings) to be paid upon Executive's closing on a residence in the Greater Pittsburgh metropolitan area.

The relocation allowance amount of \$100,000.00 is subject to your agreeing to work for Universal Stainless & Alloy Products, Inc., as the Senior Vice President of Operations, for a period of at least two (2) years. Should you terminate your employment before that time, the relocation allowance amount of \$100,000.00 is to be returned to Universal Stainless & Alloy Products, Inc.

5. **Temporary Living Expense.** For a period of three (3) months starting with the commencement of employment the Company shall reimburse Executive for the cost of local extended stay hotel expenses and a per diem of \$25.00 for meals.

**SUBSIDIARIES OF REGISTRANT**

Below are the only active wholly-owned subsidiaries of the registrant and its jurisdiction of organization.

<u>Doing Business As</u>	<u>State of Incorporation</u>
Dunkirk Specialty Steel, LLC	Delaware
USAP Holdings, Inc.	Delaware

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (No. 33-90970, No. 333-13509, No. 333-13511, No. 333-13599, No. 333-100263 and No. 333-136984) of Universal Stainless & Alloy Products, Inc. of our report dated March 6, 2009 relating to the consolidated financial statements and financial statement schedule and the effectiveness of internal control over financial reporting, which appears in this Form 10-K for the year ended December 31, 2008.

/s/ Schneider Downs & Co., Inc.

Schneider Downs & Co., Inc.

Pittsburgh, Pennsylvania

March 6, 2009



## CERTIFICATION

I, Dennis M. Oates, certify that:

1. I have reviewed this Annual Report on Form 10-K of Universal Stainless & Alloy Products, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer 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 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.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of 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: March 6, 2009

/s/ Dennis M. Oates

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Dennis M. Oates  
President and Chief Executive Officer  
(Principal Executive Officer)

## CERTIFICATION

I, Richard M. Ubinger, certify that:

1. I have reviewed this Annual Report on Form 10-K of Universal Stainless & Alloy Products, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer 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 quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of 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: March 6, 2009

/s/ Richard M. Ubinger

Richard M. Ubinger  
Vice President of Finance,  
Chief Financial Officer and Treasurer  
(Principal Financial and Accounting Officer)

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

In connection with the Annual Report on Form 10-K of Universal Stainless & Alloy Products, Inc. (the "Company") for the year ended December 31, 2008 as filed with the SEC on the date hereof (the "Report"), each of the undersigned, in the capacities and on the dates indicated below, hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his 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.

UNIVERSAL STAINLESS & ALLOY PRODUCTS, INC.

Date: March 6, 2009

/s/ Dennis M. Oates  
Dennis M. Oates  
President and Chief Executive Officer  
(Principal Executive Officer)

Date: March 6, 2009

/s/ Richard M. Ubinger  
Richard M. Ubinger  
Vice President of Finance,  
Chief Financial Officer and Treasurer  
(Principal Financial and Accounting Officer)