

THIS DOCUMENT IS A COPY OF THE QUARTERLY REPORT ON FORM 10-Q FILED ON NOVEMBER 14, 2002, PURSUANT TO A RULE 201 TEMPORARY HARDSHIP EXEMPTION.

(This submission is identical to the Quarterly Report on Form 10-Q submitted via EDGAR on November 14, 2002, but for the addition of the legend appearing above, which is required pursuant to Rule 201 of Regulation S-T.)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

[X] QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended September 29, 2002

Commission file number 1-7349

BALL CORPORATION

State of Indiana 35-0160610

10 Longs Peak Drive, P.O. Box 5000
Broomfield, CO 80021-2510
303/469-3131

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 [X] No []

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

<u>Class</u>	<u>Outstanding at October 27, 2002</u>
Common Stock, without par value	56,827,822 shares

Ball Corporation and Subsidiaries
QUARTERLY REPORT ON FORM 10-Q
For the period ended September 29, 2002

INDEX

	Page Number -----
PART I. FINANCIAL INFORMATION:	
Item 1. Financial Statements	
Unaudited Condensed Consolidated Statements of Earnings for the Three- and Nine-Month Periods Ended September 29, 2002, and September 30, 2001	3
Unaudited Condensed Consolidated Balance Sheets at September 29, 2002, and December 31, 2001	4
Unaudited Condensed Consolidated Statements of Cash Flows for the Nine-Month Periods Ended September 29, 2002, and September 30, 2001	5
Notes to Unaudited Condensed Consolidated Financial Statements	6
Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations	15
Item 3. Quantitative and Qualitative Disclosures About Market Risk	18
Item 4. Controls and Procedures	20
PART II. OTHER INFORMATION	21

PART I. FINANCIAL INFORMATION

Item 1. FINANCIAL STATEMENTS

Ball Corporation and Subsidiaries
UNAUDITED CONDENSED CONSOLIDATED
STATEMENTS OF EARNINGS
(\$ in millions)

	Three Months Ended		Nine Months Ended	
	September 29, 2002	September 30, 2001	September 29, 2002	September 30, 2001
Net sales	\$ 1,038.6	\$ 1,000.5	\$ 2,948.7	\$ 2,843.1
Costs and expenses				
Cost of sales (excluding depreciation and amortization)	866.8	853.0	2,475.4	2,426.7
Depreciation and amortization (Notes 8 and 9)	36.2	37.6	109.0	114.7
Business consolidation costs (Note 5)	-	-	-	253.7
Selling and administrative expenses	41.3	30.7	117.0	91.6
Receivable securitization fees and other (Note 6)	0.9	1.7	2.8	8.7
	945.2	923.0	2,704.2	2,895.4
Earnings (loss) before interest and taxes	93.4	77.5	244.5	(52.3)
Interest expense	18.8	21.6	55.1	68.5
Earnings (loss) before taxes	74.6	55.9	189.4	(120.8)
Provision for taxes	(26.1)	(19.6)	(66.3)	11.3
Minority interests	(0.6)	(0.5)	(1.4)	0.7
Equity in earnings of affiliates	2.1	0.5	5.7	1.5
Net earnings (loss)	50.0	36.3	127.4	(107.3)
Preferred dividends, net of tax	-	(0.6)	-	(1.8)
Earnings (loss) attributable to common shareholders	\$ 50.0	\$ 35.7	\$ 127.4	\$ (109.1)
Basic earnings (loss) per share (Note 12) (a)	\$ 0.89	\$ 0.65	\$ 2.26	\$ (1.99)
Diluted earnings (loss) per share (Note 12) (a)	\$ 0.87	\$ 0.61	\$ 2.21	\$ (1.99)
Cash dividends declared per common share (a)	\$ 0.09	\$ 0.075	\$ 0.27	\$ 0.225

See accompanying notes to unaudited condensed consolidated financial statements.

(a) Share amounts have been retroactively restated for the two-for-one stock split discussed in Note 14.

Ball Corporation and Subsidiaries
UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEETS
(\$ in millions)

	September 29, 2002	December 31, 2001
ASSETS		
Current assets		
Cash and cash equivalents	\$ 58.2	\$ 83.1
Accounts receivable, net (Note 6)	299.4	172.0
Inventories, net (Note 7)	397.6	449.3
Deferred income tax benefits and prepaid expenses	64.5	89.1
Total current assets	819.7	793.5
Property, plant and equipment, net (Note 8)	931.3	904.4
Goodwill (Note 9)	355.8	357.8
Intangibles and other assets (Note 9)	275.3	257.9
Total Assets	\$ 2,382.1	\$ 2,313.6
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities		
Short-term debt and current portion of long-term debt (Note 10)	\$ 134.1	\$ 115.0
Accounts payable	287.1	258.5
Accrued employee costs and other current liabilities	242.7	201.2
Total current liabilities	663.9	574.7
Long-term debt (Note 10)	888.9	949.1
Employee benefit obligations, deferred income taxes and other noncurrent liabilities	282.2	276.0
Total liabilities	1,835.0	1,799.8
Contingencies (Note 13)		

Minority interests	5.5	9.7
Shareholders equity		
Common stock (77,059,607 shares issued - 2002; 75,707,774 shares issued - 2001) (a)	508.8	478.9
Retained earnings	522.2	410.0
Accumulated other comprehensive loss	(54.0)	(43.7)
Treasury stock, at cost (20,233,981 shares - 2002; 17,890,596 shares - 2001) (a)	(435.4)	(341.1)
Total shareholders' equity	541.6	504.1
Total Liabilities and Shareholders' Equity	\$ 2,382.1	\$ 2,313.6

See accompanying notes to unaudited condensed consolidated financial statements.

(a) Share amounts have been retroactively restated for the two-for-one stock split discussed in Note 14.

Ball Corporation and Subsidiaries
UNAUDITED CONDENSED CONSOLIDATED
STATEMENTS OF CASH FLOWS
(\$ in millions)

	Nine Months Ended	
	September 29, 2002	September 30, 2001
Cash flows from operating activities		
Net earnings (loss)	\$ 127.4	\$ (107.3)
Noncash charges to net earnings:		
Depreciation and amortization	109.0	114.7
Business consolidation costs, net of related earnings in equity affiliates and minority interests	-	251.2
Deferred income taxes	8.1	22.6
Other, net	(4.0)	(23.8)
Changes in working capital components	10.9	(152.9)
Net cash provided by operating activities	251.4	104.5
Cash flows from investing activities		
Additions to property, plant and equipment	(87.7)	(49.5)
Acquisitions of previously leased assets	(43.1)	-
Investments and other, net	(18.9)	19.0
Net cash used in investing activities	(149.7)	(30.5)
Cash flows from financing activities		
Repayments of long-term borrowings	(50.2)	(39.0)
Change in short-term borrowings	3.9	28.6
Common dividends	(15.3)	(14.4)
Net proceeds from issuance of common stock under various employee and shareholder plans	29.3	23.4
Acquisitions of treasury stock	(94.3)	(58.1)
Other, net	-	(3.7)
Net cash used in financing activities	(126.6)	(63.2)
Net Change in Cash and Cash Equivalents	(24.9)	10.8
Cash and Cash Equivalents - Beginning of Period	83.1	25.6
Cash and Cash Equivalents - End of Period	\$ 58.2	\$ 36.4

See accompanying notes to unaudited condensed consolidated financial statements.

Ball Corporation and Subsidiaries
September 29, 2002

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. General

The accompanying condensed consolidated financial statements include the accounts of Ball Corporation and its controlled affiliates (collectively Ball, the company, we or our) and have been prepared by the company without audit. Certain information and footnote disclosures, including significant accounting policies, normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted. The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and reported amounts of revenues and expenses during the reporting period. These estimates are based on historical experience and various other assumptions believed to be reasonable under the circumstances. Actual results could differ from these estimates under different assumptions and conditions. However, we believe that the financial statements reflect all adjustments, which are of a normal recurring nature and are necessary for a fair statement of the results for the interim period.

Results of operations for the periods shown are not necessarily indicative of results for the year, particularly in view of the

seasonality in the packaging segment. We suggest that these unaudited condensed consolidated financial statements and accompanying notes be read in conjunction with the consolidated financial statements and the notes thereto included in our company's latest annual report.

Certain prior-year amounts have been reclassified in order to conform to the current-year presentation.

2. New Accounting Standards

In June 2002 the Financial Accounting Standards Board (FASB) issued Statements of Financial Accounting Standards (SFAS) No. 146, "Accounting for Costs Associated with Exit or Disposal Activities," which is effective for Ball in 2003 on a prospective basis. The statement supersedes Emerging Issues Task Force Issue No. 94-3 and revises the definition and timing of the incurrence of a liability associated with an exit or disposal activity not related to a newly acquired entity.

In May 2002 the FASB issued SFAS No. 145, "Rescission of FASB Statements No. 4, 44, and 64, Amendment of FASB Statement No. 13, and Technical Corrections as of April 2002." This statement affects Ball primarily in its rescission of SFAS No. 4, "Reporting Gains and Losses from Extinguishment of Debt," which required all such gains and losses be reported as extraordinary items. Under SFAS No. 145, these items are to be reported as extraordinary items only if they meet the requirements established under Accounting Principles Board (APB) Opinion No. 30. This statement is not effective for Ball until 2003; however, it requires that amounts previously reported as extraordinary items be reevaluated in accordance with APB No. 30 and reclassified as appropriate. The effect of adopting this standard has not yet been determined.

In August 2001 the FASB issued SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets," which supersedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of." This statement was effective for Ball beginning January 1, 2002. There was no financial impact upon adoption of this standard.

The FASB recently issued SFAS No. 141, "Business Combinations," and SFAS No. 142, "Goodwill and Other Intangible Assets." SFAS No. 141 requires that the purchase method be used for business combinations. Its provisions became effective for acquisitions after June 30, 2001. SFAS No. 142 establishes accounting guidelines for intangible assets acquired outside of a business combination. It also addresses how goodwill and other intangible assets are to be accounted for after initial recognition in the financial statements. In general, goodwill and certain intangible assets will no longer be amortized but will be tested periodically for impairment. Resulting write-downs, if any, will be recognized in the statement of earnings. This statement became effective for Ball beginning January 1, 2002. We have performed the required impairment tests for the adoption of SFAS No. 142 and have determined that no impairment exists at this time. The impact of not amortizing goodwill in the first nine months of 2002 increased diluted earnings per share by 12 cents. Full-year earnings are expected to increase by approximately \$8 million after tax, or fifteen cents per diluted share, due to this accounting change.

3. Business Segment Information

Ball's operations are organized along its product lines and include two segments - the packaging segment and the aerospace and technologies segment. The accounting policies of the segments are the same as those in the unaudited condensed consolidated financial statements. A discussion of the company's accounting policies can be found in Ball's 2001 annual report.

Packaging

The packaging segment includes the manufacture and sale of metal container products used primarily in beverage and food packaging and PET (polyethylene terephthalate) plastic container products used principally in beverage packaging. Our consolidated packaging operations are located in and serve North America and Asia, primarily the People's Republic of China (PRC). We also have investments in packaging companies in the U.S., the PRC, Brazil and Thailand, which are accounted for using the equity method of accounting, and, accordingly, those results are not included in segment earnings or assets.

Aerospace and Technologies

The aerospace and technologies segment includes the manufacture and sale of aerospace and other related products and services used primarily in the defense, civil space and commercial space industries.

Summary of Business by Segment

(\$ in millions)	Three Months Ended		Nine Months Ended	
	September 29, 2002	September 30, 2001	September 29, 2002	September 30, 2001
Net Sales				
North American metal beverage	\$ 594.4	\$ 572.8	\$ 1,730.6	\$ 1,685.4
North American metal food	192.0	189.2	477.0	479.2
North American plastic containers	96.3	77.8	276.2	224.6
International packaging	28.4	44.0	93.8	134.3
Total packaging	911.1	883.8	2,577.6	2,523.5
Aerospace and technologies	127.5	116.7	371.1	319.6
Consolidated net sales	\$ 1,038.6	\$ 1,000.5	\$ 2,948.7	\$ 2,843.1

Consolidated Net Earnings

Packaging	\$ 91.1	\$ 73.7	\$ 236.3	\$ 193.2
Business consolidation costs (Note 5)	-	-	-	(237.7)
Total packaging	91.1	73.7	236.3	(44.5)
Aerospace and technologies	9.6	9.2	31.1	22.7
Business consolidation costs (Note 5)	-	-	-	(16.0)
Total aerospace and technologies	9.6	9.2	31.1	6.7
Segment earnings (loss) before interest and taxes	100.7	82.9	267.4	(37.8)
Corporate undistributed expenses, net	(7.3)	(5.4)	(22.9)	(14.5)
Earnings (loss) before interest and taxes	93.4	77.5	244.5	(52.3)
Interest expense	(18.8)	(21.6)	(55.1)	(68.5)
Provision for taxes	(26.1)	(19.6)	(66.3)	11.3
Minority interests	(0.6)	(0.5)	(1.4)	0.7

Equity in earnings of affiliates	2.1	0.5	5.7	1.5
	-----	-----	-----	-----
Consolidated net earnings (loss)	\$ 50.0	\$ 36.3	\$ 127.4	\$ (107.3)
	=====	=====	=====	=====

(\$ in millions)

	September 29, 2002	December 31, 2001
	-----	-----
Segment Assets		
Packaging	\$ 2,647.1	\$ 2,579.0
Aerospace and technologies	205.1	179.8
	-----	-----
Total segment assets	2,852.2	2,758.8
Corporate net investment and eliminations	(470.1)	(445.2)
	-----	-----
Total consolidated assets	\$ 2,382.1	\$ 2,313.6
	=====	=====

4. Acquisitions

On August 29, 2002, we agreed to acquire 100% of the capital stock of Schmalbach-Lubeca AG (Schmalbach) for an estimated cash purchase price of (euro)900 and the assumption of certain liabilities. The final purchase price will be subject to working capital and other adjustments. Schmalbach is the second largest metal beverage can manufacturer in Europe with operations consisting of 12 plants in five European countries, a headquarters office in Ratingen, Germany, and a research and development facility located in Bonn, Germany. The acquisition is expected to be finalized by the end of 2002 or early 2003 and will be financed through new borrowings, which will also be used to refinance a portion of our existing bank debt.

On December 28, 2001, Ball acquired substantially all of the assets of Wis-Pak Plastics, Inc. (Wis-Pak) for approximately \$27.5 million. Additional payments of up to \$10 million in total, including interest, are contingent upon the future performance of the acquired business through 2006. The contingent purchase price component is being recognized as the performance levels are achieved. Under the acquisition agreement, Ball entered into a ten-year agreement to supply 100 percent of Wis-Pak's annual PET container requirements, which are currently 550 million containers. The company announced in July 2002 that it will close one of the two acquired plants before the end of 2002. The after-tax cash costs associated with this closure are estimated to be less than \$1 million.

5. Business Consolidation Costs

In June 2001 Ball announced the reorganization of its PRC packaging business. As a part of the reorganization plan, we have exited the general line metal can business and have closed one PRC beverage can plant. We are in the process of closing another PRC beverage can plant and relocating production equipment. These remaining actions are expected to be completed by the end of 2002. A \$237.7 million pretax charge (\$185 million after tax and minority interest impact) was recorded in connection with this reorganization. The charge was comprised of: (1) \$90.3 million to write-down fixed assets and related spare parts held for sale to net realizable value, including estimated costs to sell them; (2) \$64.4 million of goodwill to estimated recoverable amounts; (3) \$28.8 million for the acquisition of minority partner interests and write-off of unrecoverable equity investments; (4) \$24 million of accounts receivable deemed uncollectible and inventories deemed unsalable, both as a direct result of the exit plan; 5) \$13 million of severance cost and other employee benefits and (6) \$17.2 million of decommissioning costs, miscellaneous taxes and other exit costs. Based on current estimates, positive cash flow of approximately \$29 million, including tax recoveries, is expected upon the completion of the reorganization plan.

Also in the second quarter of 2001, we ceased operations in two commercial developmental product lines in our aerospace and technologies segment. A pretax charge of \$16 million (\$9.7 million after tax) was recorded in the second quarter of 2001. The charge was comprised of: (1) \$10 million of accounts receivable deemed uncollectible and inventories deemed unsalable, both as a direct result of the exit plan; (2) \$2 million to write-down fixed assets held for sale to net realizable value, including estimated costs to sell; (3) \$3.6 million of decommissioning and other exit costs and (4) \$0.4 million of severance and other employee benefit costs.

In November 2001 Ball announced the closure of its Moultrie, Georgia, plant to address overcapacity in the aluminum beverage can industry in North America. The plant was closed in December and the company recorded a pre-tax charge of \$24.7 million (\$15 million after tax). The charge included: (1) \$15.8 million for the write-down of fixed assets held for sale and related machinery spare parts inventory to estimated net realizable value, including estimated costs to sell; (2) \$4.7 million for severance and other employee benefit costs; (3) \$3.2 million for other assets and decommissioning costs; and (4) \$1 million for contractual pension and retirement obligations which have been included in the appropriate liability accounts. This charge was offset in part by the reversal of \$7.2 million (\$4.5 million after tax) of the June 2001 restructuring charge, primarily due to original estimates exceeding net actual costs as activities were concluded.

Severance and other benefit costs related to the above actions in the PRC and the U.S. are associated with 1,592 former employees, primarily manufacturing and administrative personnel. The carrying value of fixed assets remaining for sale in connection with the 2001 charges is less than \$1 million.

The following table summarizes the activity related to the 2001 restructuring and plant closing costs during 2002:

(\$ in millions)	Pension/ Employee Costs	Other Assets/ Costs	Total
	-----	-----	-----
Balance at December 31, 2001	\$ 8.7	\$ 16.6	\$ 25.3
Payments	(3.8)	(5.2)	(9.0)
	-----	-----	-----
Balance at September 29, 2002	\$ 4.9	\$ 11.4	\$ 16.3
	=====	=====	=====

In the second quarter of 2000, the company recorded an \$83.4 million pre-tax charge (\$55 million after tax, minority interests and equity earnings impact) for packaging business consolidation and investment exit activities in North America and the PRC. The carrying value of fixed assets remaining for sale in connection with the 2000 business exit activities, as well as the remaining integration activities related to a 1998 acquisition, was approximately \$5.7 million at September 29, 2002. The remaining accrued employee severance and other exit costs at September 29, 2002, were less than \$1 million.

Subsequent changes to the estimated costs of the 2001 and 2000 business consolidation activities, if any, will be included in current-period earnings.

6. Receivables Sales Agreement

A receivables sales agreement provides for the ongoing, revolving sale of a designated pool of trade accounts receivable of Ball's U.S. packaging operations. In June 2002 the designated pool of receivables was increased to provide for sales of up to \$175 million from the previous amount of \$125 million. Net funds received from the sale of the accounts receivable totaled \$157.5 million at September 29, 2002, and \$122.5 million at September 30, 2001. Fees incurred in connection with the sale of accounts receivable, which were lower in 2002 due to a decrease in interest rates, totaled \$0.9 million and \$2.3 million for the third quarter and first nine months of 2002, respectively, and \$1.2 million and \$4.6 million for the same periods in 2001.

7. Inventories

<i>(\$ in millions)</i>	September 29, 2002	December 31, 2001
Raw materials and supplies	\$ 127.5	\$ 148.9
Work in process and finished goods	270.1	300.4
	-----	-----
	\$ 397.6	\$ 449.3
	=====	=====

8. Property, Plant and Equipment

<i>(\$ in millions)</i>	September 29, 2002	December 31, 2001
Land	\$ 49.6	\$ 49.5
Buildings	495.3	456.8
Machinery and equipment	1,455.7	1,398.5
	-----	-----
	2,000.6	1,904.8
Accumulated depreciation	(1,069.3)	(1,000.4)
	-----	-----
	\$ 931.3	\$ 904.4
	=====	=====

Depreciation expense amounted to \$35.3 million and \$106.3 million for the three- and nine-month periods ended September 29, 2002, respectively, and \$34.3 million and \$103.3 million for the comparable periods ended September 30, 2001, respectively.

9. Goodwill, Intangibles and Other Assets

<i>(\$ in millions)</i>	September 29, 2002	December 31, 2001
Goodwill (net of accumulated amortization of \$65.2 at September 29, 2002, and December 31, 2001)	\$ 355.8	\$ 357.8
Prepaid pension	110.4	101.0
Investments in affiliates	79.0	68.8
Intangibles (net of accumulated amortization of \$15.5 at September 29, 2002, and \$12.7 at December 31, 2001)	13.6	11.1
Other	72.3	77.0
	-----	-----
	275.3	257.9
	-----	-----
	\$ 631.1	\$ 615.7
	=====	=====

Total amortization expense amounted to \$0.9 million and \$2.7 million for the third quarter and first nine months of 2002, respectively, and \$3.3 million and \$11.4 million for the same periods in 2001, respectively, of which \$2.4 million and \$8.2 million related to the amortization of goodwill in the 2001 periods. Based on intangible assets as of September 29, 2002, total annual intangible asset amortization expense is expected to be between \$3 million and \$4 million in each of the next five years. The change in goodwill from December 31, 2001, is a combination of the reclassification of certain items to other intangible assets as valuations related to the Wis-Pak acquisition were finalized, the buyout of certain minority interest partners in the PRC and the effects of currency translation.

The following table summarizes the pro forma earnings and per share impact of not amortizing goodwill during 2001:

<i>(\$ in millions, except per share amounts)</i>	Three Months Ended		Nine Months Ended	
	September 29, 2002	September 30, 2001	September 29, 2002	September 30, 2001
Net earnings (loss), as reported	\$ 50.0	\$ 36.3	\$ 127.4	\$ (107.3)
Add back goodwill amortization, net of tax	-	2.1	-	7.0
Adjusted net earnings	\$ 50.0	\$ 38.4	\$ 127.4	\$ (100.3)
	=====	=====	=====	=====
<u>Basic Earnings per Share</u>				
Basic earnings (loss) per share, as reported	\$ 0.89	\$ 0.65	\$ 2.26	\$ (1.99)
Add back goodwill amortization, net of tax	-	0.03	-	0.12
Adjusted basic earnings (loss) per share	\$ 0.89	\$ 0.68	\$ 2.26	\$ (1.87)
	=====	=====	=====	=====
<u>Diluted Earnings per Share</u>				
Diluted earnings (loss) per share, as reported	\$ 0.87	\$ 0.61	\$ 2.21	\$ (1.99)
Add back goodwill amortization, net of tax	-	0.03	-	0.12
Adjusted diluted earnings (loss) per share	\$ 0.87	\$ 0.64	\$ 2.21	\$ (1.87)
	=====	=====	=====	=====

10. Debt

Debt includes \$300 million of 7.75% Senior Notes due in 2006, \$250 million of 8.25% Senior Subordinated Notes due in 2008 and borrowings under a Senior Credit Facility, which bear interest at variable rates. At September 29, 2002, approximately \$459 million was available under the revolving credit facility portion of the Senior Credit Facility.

The Senior Notes, Senior Subordinated Notes and Senior Credit Facility agreements are guaranteed on a full, unconditional and joint and several basis by certain of the company's domestic wholly owned subsidiaries and contain certain covenants and restrictions including, among other things, limits on the incurrence of additional indebtedness and limits on the amount of restricted payments, such as dividends and share repurchases. Exhibit 20.1 contains condensed, consolidating financial information for the company, segregating the guarantor subsidiaries and non-guarantor subsidiaries. Separate financial statements for the guarantor subsidiaries and the non-guarantor subsidiaries are not presented because management has determined that such financial statements would not be material to investors.

Ball has provided a completion guarantee representing 50 percent of the \$27.1 million of debt issued by our Brazilian joint venture that was used to fund the previous construction of facilities.

The company was not in default of any loan agreement at September 29, 2002, and has met all debt payment obligations.

11. Shareholders' Equity

The company has several stock option plans under which options to purchase shares of common stock have been granted to officers and employees at the market value of the stock at the date of grant. In general options are exercisable in four equal installments commencing one year from the date of grant and terminate 10 years from the date of grant. At September 29, 2002, there were 3,260,267 options outstanding under these plans at a weighted average exercise price of \$24.51 per share, of which 1,622,525 were exercisable at a weighted average exercise price of \$19.07 per share.

The company adopted a deposit share program in March 2001 that, by matching purchased shares with restricted shares, encourages certain senior management employees and outside directors to invest in Ball stock. Participants have until March 2003 to acquire shares in order to receive the matching restricted share grants. Restrictions on the matching shares lapse at the end of four years from date of grant, or earlier if established share ownership guidelines are met, assuming the qualifying purchased shares are not sold or transferred prior to that time. As of September 29, 2002, a total of 556,643 shares are available for grant under this program, of which 466,576 shares have been granted. This plan is accounted for as a variable plan where compensation expense is recorded based upon the current market price of the company's common stock until restrictions lapse. The company recorded \$4.5 million and \$0.6 million of expense in connection with this program in the first nine months of 2002 and 2001, respectively. The increase in 2002 compared to 2001 is the result of the timing of the share grants as well as the higher price of Ball stock.

Accumulated other comprehensive loss includes the cumulative effect of foreign currency translation, additional minimum pension liability and unrealized gains and losses on derivative instruments receiving cash flow hedge accounting treatment.

(\$ in millions)	Foreign Currency Translation	Minimum Pension Liability (net of tax)	Effective Financial Derivatives (a)	Accumulated Other Comprehensive Loss
December 31, 2001	\$ (29.9)	\$ (5.7)	\$ (8.1)	\$ (43.7)
Change	2.1	-	(12.4)	(10.3)
September 29, 2002	\$ (27.8)	\$ (5.7)	\$ (20.5)	\$ (54.0)

(a) Refer to Item 3, "Quantitative and Qualitative Disclosures About Market Risk," for a discussion of the company's use of derivative financial instruments.

The following table summarizes total comprehensive earnings for the third quarter and nine-month periods of 2002 and 2001:

(\$ in millions)	Three Months Ended		Nine Months Ended	
	September 29, 2002	September 30, 2001	September 29, 2002	September 30, 2001
Comprehensive Earnings				
Net earnings (loss)	\$ 50.0	\$ 36.3	\$ 127.4	\$ (107.3)
Foreign currency translation adjustment	(6.3)	(3.8)	2.1	(1.3)
Effect of derivative instruments	(21.1)	(8.9)	(12.4)	(9.9)
Minimum pension liability (net of tax)	-	-	-	(0.2)
Comprehensive earnings (loss)	\$ 22.6	\$ 23.6	\$ 117.1	\$ (118.7)

12. Earnings Per Share

The following table provides additional information on the computation of earnings per share amounts:

(\$ in millions, except per share amounts)	Three Months Ended		Nine Months Ended	
	September 29, 2002	September 30, 2001	September 29, 2002	September 30, 2001
<u>Basic Earnings per Share</u>				
Net earnings (loss)	\$ 50.0	\$ 36.3	\$ 127.4	\$ (107.3)
Preferred dividends, net of tax	-	(0.6)	-	(1.8)
Earnings (loss) attributable to common shareholders	\$ 50.0	\$ 35.7	\$ 127.4	\$ (109.1)
Weighted average common shares (000s)	56,188	54,920	56,347	54,858

Basic earnings (loss) per share	\$ 0.89	\$ 0.65	\$ 2.26	\$ (1.99)
<u>Diluted Earnings per Share</u>				
Net earnings (loss)	\$ 50.0	\$ 36.3	\$ 127.4	\$ (107.3)
Adjustment for deemed ESOP cash contribution in lieu of the ESOP Preferred dividend	-	(0.4)	-	(1.3)
Earnings (loss) attributable to common shareholders	\$ 50.0	\$ 35.9	\$ 127.4	\$ (108.6)
Weighted average common shares (000s)	56,188	54,920	56,347	54,858
Effect of dilutive stock options	1,217	906	1,265	794
Common shares issuable upon conversion of the ESOP Preferred stock	-	3,204	-	3,272
Weighted average shares applicable to diluted earnings per share	57,405	59,030	57,612	58,924
Diluted earnings (loss) per share	\$ 0.87	\$ 0.61	\$ 2.21	\$ (1.99) (1)

(1) The diluted loss per share in the first nine months of 2001 is the same as the net loss per common share because the assumed exercise of stock options and conversion of the ESOP Preferred stock would have been anti-dilutive.

For the 2002 and 2001 periods, stock options to purchase 460,950 and 448,476 shares of common stock, respectively, were not included in the computation of diluted earnings per share since they were anti-dilutive (i.e., their exercise price exceeded the average closing market price of Ball common stock during the periods).

13. Contingencies

The company is subject to various risks and uncertainties in the ordinary course of business due, in part, to the competitive nature of the industries in which we participate, our operations in developing markets outside the U.S., changing commodity prices for the materials used in the manufacture of our products and changing capital markets. Where practicable, we attempt to reduce these risks and uncertainties through the establishment of risk management policies and procedures, including, at times, the use of certain derivative financial instruments.

From time to time, the company is subject to routine litigation incident to its business. Additionally, the U.S. Environmental Protection Agency has designated Ball as a potentially responsible party, along with numerous other companies, for the cleanup of several hazardous waste sites. Our information at this time does not indicate that these matters will have a material adverse effect upon the liquidity, results of operations or financial condition of the company.

14. Stock Split

On January 23, 2002, the company's Board of Directors declared a two-for-one stock split, increased the quarterly dividend and authorized the repurchase of additional common shares. The stock split was effective February 22, 2002, for all shareholders of record on February 1, 2002. As a result of the stock split, all amounts related to earnings, options and outstanding shares have been retroactively restated as if the split had occurred as of January 1, 2001.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Management's discussion and analysis should be read in conjunction with the unaudited condensed consolidated financial statements and the accompanying notes. Ball Corporation and subsidiaries are referred to collectively as Ball" or the "company" or "we" and "our" in the following discussion and analysis.

RECENT DEVELOPMENTS

On August 29, 2002, we agreed to acquire 100% of the capital stock of Schmalbach-Lubeca AG (Schmalbach) for an estimated cash purchase price of (euro)900 million and the assumption of certain liabilities. The final purchase price will be subject to working capital and other adjustments. Schmalbach is the second largest metal beverage can manufacturer in Europe with operations consisting of 12 plants in five European countries, a headquarters office in Ratingen, Germany, and a research and development facility located in Bonn, Germany. Schmalbach produces more than 12 billion aluminum and steel beverage cans and ends and employs more than 2,400 people. The acquisition is expected to be finalized by the end of 2002 or early 2003 and will be financed through new borrowings, which will also be used to refinance a portion of our existing bank debt.

CONSOLIDATED SALES AND EARNINGS

Ball's operations are organized along its product lines and include two segments - the packaging segment and the aerospace and technologies segment.

Packaging Segment

The packaging segment includes the manufacture and sale of metal containers used primarily in beverage and food packaging and PET (polyethylene terephthalate) plastic containers used principally in beverage packaging. Our consolidated packaging operations are located in and serve North America and the People's Republic of China (PRC). We also have investments in packaging companies in the U.S., the PRC, Brazil and Thailand, which are accounted for using the equity method of accounting, and accordingly, those results are not included in segment earnings or assets. Packaging segment sales in the third quarter and first nine months of 2002 were 3 percent and 2 percent higher, respectively, than in the same periods of 2001. Operating margins improved to 10 percent and 9.2 percent in the third quarter and first nine months of 2002 from 8.3 percent and 7.7 percent in the same periods in 2001, excluding the business consolidations charge recorded in the second quarter of 2001. The improvements reflect improved operating results in China, largely due to the company's restructuring actions taken in 2001, general improvement in the company's PET product line and price increases and lower per unit costs due to higher production volume in the beverage can product line.

North American metal beverage container sales, which represented approximately 65 percent of segment sales in the third quarter of 2002 were 4 percent higher than in the third quarter of 2001. In the first nine months, metal beverage container sales represented 67 percent of segment sales and were approximately 3 percent higher than in the same period in 2001. The increased sales were largely due to price increases and Ball's agreement with Coors Brewing Company (Coors) under which substantially all of Coors' can requirements for its Shenandoah, Virginia, and Memphis, Tennessee, filling locations are manufactured at Ball facilities and sold to

Coors. Sales under this agreement began in the first quarter of 2002. Operating margins in this product line were higher as a result of plants operating at near full capacity coupled with improved sales prices.

Through a 50/50 joint venture, which is accounted for as an equity investment, Ball and Coors operate Coors' can and end facilities in Golden, Colorado. The joint venture supplies Coors with approximately 3.5 billion beverage cans and ends annually for its Golden, Colorado, brewery under agreements which commenced in January 2002.

North American metal food container sales, which comprised approximately 21 percent of segment sales in the third quarter and approximately 19 percent in the first nine months of 2002, were essentially flat compared to those in 2001, which were at record levels. These results were achieved despite a combination of droughts and floods in the U.S., which negatively impacted our fruit and vegetable processor customers, and the lowest salmon pack in the Pacific Northwest in over a decade. Operating margins were lower largely due to product mix. We anticipate that full-year 2002 earnings will be lower than 2001's record results as a result of these conditions, as well as the start-up costs associated with a new two-piece food can production line in our Milwaukee plant (as discussed below).

We have signed a new multi-year contract with Abbott Laboratories' Ross Products Division (Ross), the makers of a broad range of infant formulas. Ross will exit a portion of its self-manufacturing operations in early 2003. To accommodate this new business and convert existing three-piece food can customers to two-piece cans, we are adding a new two-piece steel can line in our Milwaukee plant capable of producing approximately 1.2 billion cans per year, as well as a new 225,000-square-foot warehouse addition. These capital additions are scheduled for completion in early 2003 and are expected to cost approximately \$43 million.

Plastic container sales, approximately 11 percent of segment sales in 2002, were 24 percent higher in the third quarter of 2002 compared to 2001 and 23 percent higher in the first nine months. The increase in sales, which are predominantly to water and carbonated soft drink customers, was driven by internal growth as well as the company's acquisition of Wis-Pak Plastics, Inc. (Wis-Pak) in December 2001. Overall operating margins also improved as a result of lower energy, freight and warehousing costs, although in the third quarter we experienced higher operating costs and increased freight between plants as a result of extremely low inventory levels. Four new plastic bottle blow molding production lines have been added to our facilities to help meet the increased demand.

Sales were lower in the PRC in the first nine months of 2002 due to the shutdown and sale of the general line can business and other PRC restructuring efforts in the second half of 2001. However, earnings before and interest and taxes improved by more than \$6 million in the first nine months of 2002 due to the business consolidation actions taken during 2001.

Aerospace and Technologies Segment

Sales in the aerospace and technologies segment were 9 percent and 16 percent higher in the third quarter and first nine months of 2002, compared to the same periods in 2001, primarily in defense and civil space operations. The increase is due to a combination of newly awarded contracts and additions to previously awarded contracts. Ball has recently been selected as part of a team to build NASA's James Webb Space Telescope. The improvement in operating earnings for the first nine months compared to the same period in 2001 was primarily the result of the strong sales, which were driven by growth in our U.S. government business, and by the disposition of two unprofitable aerospace product lines in 2001. Backlog at the end of the third quarter of 2002 was approximately \$405 million compared to a backlog of \$431 million at the end of 2001 and \$353 million at September 30, 2001. Year-to-year comparisons of backlog are not necessarily indicative of the trend of future operations.

For additional information on our segment operations, see the Summary of Business by Segment in Note 3 accompanying the consolidated financial statements included within Item 1.

Selling and Administrative

Selling and administrative expenses were \$41.3 million in the third quarter and \$117 million in the first nine months of 2002 compared to \$30.7 million and \$91.6 for the same periods of 2001, respectively. The increase is primarily the result of higher employee incentives, increased medical costs and a 401(k) plan match, which replaced the preference dividend related to the company's leveraged employee stock ownership plan that expired at the end of 2001. Included in employee incentive costs was \$3.9 million of higher expense associated with the company's deposit share program, which is discussed in further detail in Note 11 to the consolidated financial statements within Item 1. In addition, during the third quarter, we reduced our U.S. pension plan asset return assumptions to a long-term rate of 9 percent. The change in the return on pension asset assumption will result in approximately \$3.7 million higher pension expense for the year, of which \$1.9 million was recorded in the third quarter.

Interest and Taxes

Consolidated interest expense was \$18.8 million and \$55.1 million for the third quarter and first nine months of 2002, respectively, compared to \$21.6 million and \$68.5 million for the same periods in 2001, respectively. Lower interest costs were attributable to lower interest rates and borrowings in 2002. The company's consolidated average borrowing rate decreased to 6.8 percent for the first nine months of 2002 versus 7.4 percent in the first nine months of 2001.

The consolidated effective income tax rate was 35 percent in the first nine months of 2002 compared to 9.4 percent in 2001. Excluding the effect of business consolidation costs in 2001, Ball's effective income tax rate was 35 percent. The lower rate of 9 percent on the loss in the first nine months of 2001 reflected the impact of currently nondeductible goodwill as well as currently unrealized capital losses included in the second quarter 2001 charge for business consolidation costs in the PRC.

Results of Equity Affiliates

Equity in the net results of affiliates is largely attributable to our 50 percent ownership in packaging investments in North America and Brazil and, to a lesser extent, an aerospace business and our minority owned packaging investments in the PRC and Thailand. Earnings of \$5.7 million in the first nine months of 2002 were higher compared to \$1.5 million for the same period in 2001, with improvements seen in all equity affiliates year over year, except in Brazil where earnings were negatively impacted primarily by foreign currency devaluations.

Other Items

Ball closed one of the two plants it acquired in the acquisition of Wis-Pak and is in the process of consolidating its operations with an existing plastic bottle plant. The after-tax cash costs associated with this closure are estimated to be less than \$1 million.

In 2001 we announced a plan to exit the general line metal can business in the PRC and to further reduce our PRC beverage can manufacturing capacity by closing two plants. We have since sold the general line business, closed one beverage can plant and are in the process of closing the second. Based on current estimates, positive cash flow of approximately \$29 million, including tax recoveries, is expected upon the completion of this reorganization plan. Also in June 2001, we ceased operations in two commercial developmental product lines in our aerospace and technologies business. These actions combined helped improve operating earnings by approximately \$10 million in the first nine months of 2002 compared to the same period in 2001. In mid-December 2001 we closed the Moultrie, Georgia, beverage can plant. To affect these actions, pre-tax charges totaling \$271.2 million were recorded in 2001.

The amounts recorded were based on the estimates of Ball management and actuaries and other third parties and were developed from information available at the time. Actual outcomes may vary from the estimates, and, as required, changes, if any, have been or will be reflected in current period earnings or, in the case of the Wis-Pak acquisition, as a reduction of goodwill. Additional details about our business consolidation and acquisition-related activities and associated costs are provided in Note 5 accompanying the consolidated financial statements within Item 1.

FINANCIAL CONDITION, LIQUIDITY AND CAPITAL RESOURCES

Cash flow from operations for the first nine months of 2002 was \$251.4 million, a significant improvement over \$104.5 million for the same period in 2001. The improvements in 2002 reflected planned inventory reductions, changes in accounts payable terms and \$35 million from the sale of additional accounts receivable in accordance with the company's receivables sales agreement discussed below. Capital spending of \$87.7 million in the first nine months of 2002 was below depreciation and amortization expense of \$109 million. In September 2002, we purchased previously leased plant and equipment assets for a total of \$43.1 million. Capital spending is expected to be between \$150 million and \$160 million for the year, with increased spending in the metal food and PET product lines for new production capacity necessitated by increased demand.

Total debt decreased to \$1,023 million at September 29, 2002, compared to \$1,064.1 million at December 31, 2001. At September 29, 2002, approximately \$459 million was available under the revolving credit facility portion of the Senior Credit Facility. We notified our lenders in mid-July that based on our financing needs, we no longer needed the \$125 million short-term portion of the revolver as we have adequate funds available under the long-term portion. Ball Asia Pacific Holdings Limited and its consolidated subsidiaries had short-term uncommitted credit facilities of approximately \$82 million at the end of the third quarter, of which \$52.1 million was outstanding.

Management and the company's actuaries are currently assessing the funded status of our pension plans in light of overall market conditions and performance. Based on preliminary estimates, we anticipate that we will make additional contributions to our plans during the fourth quarter of 2002. Additionally, for certain plans we may need to record on the consolidated balance sheet additional minimum liability adjustments at December 31, 2002. These amounts, if any, will be recorded as an increase in long-term liabilities and a reduction of shareholders' equity on the consolidated balance sheet.

A receivables sales agreement provides for the ongoing, revolving sale of a designated pool of trade accounts receivable of Ball's U.S. packaging operations. In June 2002 the designated pool of receivables was increased to provide for sales of up to \$175 million from the previous amount of \$125 million. Net funds received from the sale of the accounts receivable totaled \$157.5 million at September 29, 2002, and \$122.5 million at September 30, 2001, and are expected to be approximately \$122.5 million at December 31, 2002.

The company was not in default of any loan agreement at September 29, 2002, and has met all debt payment obligations.

Additional details about the company's debt and receivables sales agreement are available in Notes 10 and 6, respectively, accompanying the consolidated financial statements included within Item 1.

CONTINGENCIES

Details about the company's contingencies are available in Note 13 accompanying the consolidated financial statements included within Item 1.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

In the ordinary course of business, we employ established risk management policies and procedures to reduce our exposure to commodity price changes, changes in interest rates, fluctuations in foreign currencies and the company's common share repurchase program.

We manage our commodity price risk in connection with market price fluctuations of aluminum primarily by entering into can and end sales contracts, which include aluminum-based pricing terms that consider price fluctuations under our commercial supply contracts for aluminum purchases. The terms include "band" pricing where there is an upper and lower limit, a fixed price or only an upper limit to the aluminum component pricing. This matched pricing affects substantially all of our North American metal beverage packaging net sales. We also, at times, use certain derivative instruments such as option and forward contracts as cash flow hedges of commodity price risk. Outstanding contracts at the end of the third quarter expire in less than one year and up to two years. Included in shareholders' equity at September 29, 2002, within accumulated other comprehensive loss, is approximately \$18 million of net loss associated with these contracts of which approximately \$8 million of loss is expected to be recognized in the consolidated statement of earnings during 2003 and \$10 million of loss in 2004. These amounts will be offset completely in both periods by higher revenue from customer fixed price sales contracts and will therefore have no effect on our consolidated net earnings.

Considering the effects of derivative instruments, the market's ability to accept price increases and the company's commodity price exposures to aluminum, a hypothetical 10 percent adverse change in the company's aluminum prices could have an estimated \$1 million impact on earnings over a one-year period. Actual results may vary based on actual changes in market prices and rates.

Steel can sales contracts incorporate annually negotiated metal costs, and plastic container sales contracts include provisions to pass through resin costs changes. As a result, we believe we have minimal, if any, exposure related to changes in the costs of these commodities.

Our objective in managing exposure to interest rate changes is to limit the impact of interest rate changes on earnings and cash flows and to lower our overall borrowing costs. To achieve these objectives, we use a variety of interest rate swaps, collars and options to manage our mix of floating and fixed-rate debt. Interest rate instruments held by the company at September 29, 2002, included pay-floating and pay-fixed interest rate swaps and swaption contracts. Pay-fixed swaps effectively convert variable rate obligations to fixed rate instruments. Pay-floating swaps effectively convert fixed-rate obligations to variable rate instruments. Swap agreements expire at various times up to four years. Although these instruments involve varying degrees of credit and interest risk, the counter parties to the agreements are financial institutions, which are expected to perform fully under the terms of the agreements. Approximately \$2 million of mark-to-market loss associated with these contracts is included in other accumulated comprehensive loss at September 29, 2002, the majority of which is expected to be recognized in the consolidated statement of earnings during the remainder of 2002.

The company has estimated its market risk exposure using sensitivity analysis. Market risk exposure has been defined as the changes in fair value of a derivative instrument assuming a hypothetical 100 basis point adverse change in interest rates. The results of the sensitivity analyses as of September 29, 2002, did not differ materially from the amounts reported as of December 31, 2001. Actual changes in market prices or rates may differ from hypothetical changes.

Our objective in managing exposure to foreign currency fluctuations is to protect foreign cash flow and reduce earnings volatility associated with foreign exchange rate changes through the use of cash flow hedges. Our primary foreign currency risk exposures result from the strengthening of the U.S. dollar against the Hong Kong dollar, Canadian dollar, Chinese renminbi, Thai baht and Brazilian real. We face currency exposures in our global operations as a result of maintaining U.S. dollar debt and payables in these foreign countries. We use forward contracts to manage our foreign currency exposures and, as a result, gains and losses on

these derivative positions offset, in part, the impact of currency fluctuations on the existing assets and liabilities. Contracts outstanding at the end of the third quarter expire in less than one year and their fair value was not significant.

Considering the company's derivative financial instruments outstanding at September 29, 2002, and the currency exposures, a hypothetical 10 percent unfavorable change in the exchange rates compared to the U.S. dollar could have an estimated \$2 million impact on earnings over a one-year period. Actual changes in market prices or rates may differ from hypothetical changes.

In connection with the company's ongoing share repurchase program, from time to time we sell put options which give the purchaser of those options the right to sell shares of the company's common stock to the company on specified dates at specified prices upon the exercise of those options. The put option contracts allow us to determine the method of settlement, either in cash or shares. As such, the contracts are considered equity instruments and changes in the fair value are not recognized in our financial statements. Our objective in selling put options is to lower the average purchase price of acquired shares in connection with our ongoing share repurchases. At September 29, 2002, there were put option contracts outstanding for 125,000 shares at an average price of \$34.23 per share. Also in connection with the share repurchase program, in 2001 we entered into a forward share repurchase agreement to purchase shares of the company's common stock. In January 2002 we purchased 736,800 shares under this agreement at an average price of \$33.58 per share and in July 2002 we purchased an additional 195,600 shares at an average price of \$45.49. We also entered into a share repurchase agreement during 2000 under which we purchased 1,021,000 shares in January 2001 at an average price of \$17.58 per share.

Item 4. CONTROLS AND PROCEDURES

Within 90 days of the filing of the quarterly report, our Chief Executive Officer and Chief Financial Officer conducted an evaluation of our disclosure controls and procedures as defined by the Securities and Exchange Commission (SEC) and concluded that they were appropriate to ensure that information required to be disclosed by us in this quarterly report is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. There have not been any significant changes in our internal controls or in other factors that would significantly affect these controls subsequent to the evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses in the internal controls.

FORWARD-LOOKING STATEMENTS

The company has made or implied certain forward-looking statements in this quarterly report which are made as of the end of the time frame covered by this report. These forward-looking statements represent the company's goals and could vary materially from those expressed or implied. From time-to-time we also provide oral or written forward-looking statements in other materials we release to the public. As time passes, the relevance and accuracy of forward-looking statements may change. Some factors that could cause the company's actual results or outcomes to differ materially from those discussed in the forward-looking statements include, but are not limited to, fluctuation in customer growth and demand; product introductions; insufficient production capacity; overcapacity in foreign and domestic metal and plastic container industry production facilities and its impact on pricing and financial results; lack of productivity improvement or production cost reductions; the weather; fruit, vegetable and fishing yields; power and natural resource costs; difficulty in obtaining supplies and energy, such as gas and electric power; shortages in and pricing of raw materials; changes in the pricing of the company's products and services; competition in pricing and the possible decrease in, or loss of, sales resulting therefrom; loss of profitability and plant closures; insufficient or reduced cash flow; transportation costs; the inability to continue the purchase of the company's common shares; the ability to obtain adequate credit resources for foreseeable financing requirements of the company's businesses and to satisfy the resulting credit obligations; regulatory action or federal and state legislation including mandated corporate governance and financial reporting laws; the proposed German mandatory deposit or other restrictive packaging legislation such as recycling laws; increases in interest rates; labor strikes; increases in various employee benefits and labor costs; boycotts; litigation involving antitrust, intellectual property, consumer and other issues; maintenance and capital expenditures; goodwill impairment; changes in generally accepted accounting principles or their interpretation; local economic conditions; the authorization, funding and availability of government contracts and the nature and continuation of those contracts and related services provided thereunder; technical uncertainty associated with performance of aerospace segment contracts; international business and market risks such as the devaluation of international currencies; the ability or inability to pass on to customers changes in raw material costs, particularly resin, steel and aluminum; pricing and ability or inability to sell scrap associated with the production of metal containers, international business risks (including foreign exchange rates) in the United States, Europe and particularly in developing countries such as China and Brazil; terrorist activity or war that disrupts the company's production, supply, or pricing of raw materials used in the production of the company's goods and services, and/or disrupts the ability of the company to obtain adequate credit resources for the foreseeable financing requirements of the company's businesses; and successful or unsuccessful acquisitions, joint ventures or divestitures and the integration activities associated therewith, including the integration and operation of the business of Schmalbach-Lubeca AG. If the company is unable to achieve its goals, then the company's actual performance could vary materially from those goals expressed or implied in the forward-looking statements. The company does not intend to publicly update forward-looking statements except as it deems necessary at quarterly or annual earnings reports. You are advised, however, to consult any further disclosures we make on related subjects in our 10-Q, 8-K and 10-K reports to the Securities and Exchange Commission.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

As previously reported, on or about December 31, 1992, William Hallahan and his wife filed suit in the Supreme Court of the State of New York, County of Saratoga, against certain manufacturers of solvents, coatings and equipment, including Somerset Technologies, Inc. (Somerset) and Belvac Production Machinery (Belvac), seeking damages in the amount of \$15 million for allegedly causing leukemia by exposing him to harmful toxins. Somerset and Belvac filed third-party complaints seeking contribution from the company for damages that they might be required to pay William Hallahan. The defendants, including the company, filed a motion for summary judgment against the plaintiff requesting a judgment that the Workers' Compensation Board has determined this case against William Hallahan. On July 3, 2002, the Court entered a decision in favor of the defendants and us. On August 13, 2002, the Court entered judgment on the decision. On August 29, 2002, Mr. Hallahan and his wife filed an appeal in the Appellate Division. Based upon the information available to the company at the present time, the company believes that this matter will not have a material adverse effect upon the liquidity, results of operations or financial condition of the company.

Ball previously reported that in 1998 various consumers filed toxic tort litigation in the Superior Court for Los Angeles County (Trial Court) against various water companies operating in the San Gabriel Valley Basin. The water companies petitioned the Trial Court to remove this action to the California Public Utilities Commission. The Trial Court agreed. The plaintiffs appealed this decision to the California Court of Appeals, which reversed the Trial Court. One non-regulated utility has appealed this decision to the California Supreme Court. Pending completion of the appellate process, the Trial Court stayed further action in this litigation except that the plaintiffs were permitted to add additional defendants. The Trial Court consolidated the six separate lawsuits in the Northeast District (Pasadena) and designated the case of *Adler, et al. v. Southern California Water Company, et al.*, as the lead case. In late March 1999, Ball-Foster Glass Container Co., L.L.C., which we no longer own, received a summons and amended complaint based on its ownership of the El Monte glass plant. Ball-Foster Glass tendered the lawsuit to us for defense and indemnity. We in turn tendered this lawsuit to our liability carrier, Commercial Union, for defense and indemnity. Plaintiffs appear to be proceeding to join all companies, which are alleged to be PRPs in the various operable units in the San Gabriel Valley Superfund Site. The litigation, including the filing of answers by such joined parties, has been stayed pending the decision of the California Supreme Court as to whether the California Public Utilities Commission has sole jurisdiction over these cases since some of the defendants

are regulated utilities. On February 4, 2002, the California Supreme Court issued its written opinion upholding the decision of the Court of Appeals ruling that the plaintiffs may proceed with their toxic tort claims in the Trial Court against all defendants, including Ball, who are non-regulated utilities. A complex case management order has been entered. Under the order, the cases were divided into three groups with Ball being named in only the Adler case. The plaintiffs were ordered to re-file their complaints. Plaintiffs served the consolidated Adler group complaint on Ball. In a hearing on October 21, 2002, the judge dismissed the punitive damage claims in the complaint. The case management order also allows limited discovery by written interrogatories, although these have not been served by the plaintiffs. Similarly situated *de minimis* industry defendants have formed a joint defense group and we are joining the group. Based on the information, or lack thereof, available to us at the present time, we are unable to express an opinion as to our actual exposure for this matter; however, based on the information available to us at the present time, we do not believe that this matter will have a material adverse effect upon our liquidity, results of operations or financial condition.

Item 2. Changes in Securities

There were no events required to be reported under Item 2 for the quarter ended September 29, 2002.

Item 3. Defaults Upon Senior Securities

There were no events required to be reported under Item 3 for the quarter ended September 29, 2002.

Item 4. Submission of Matters to a Vote of Security Holders

There were no events required to be reported under Item 4 for the quarter ended September 29, 2002.

Item 5. Other Information

There were no events required to be reported under Item 5 for the quarter ended September 29, 2002.

Item 6. Exhibits and Reports on Form 8-K

(a) Exhibits

- 10.1 Share Sale and Transfer Agreement Between Schmalbach-Lubeca Holding GmbH, AV Packaging GmbH, Ball Pan-European Holdings, Inc., and Ball Corporation Dated August 29, 2002
- 20.1 Subsidiary Guarantees of Debt
- 99.1 Safe Harbor Statement Under the Private Securities Litigation Reform Act of 1995, as amended

(b) Reports on Form 8-K

A Current Report on Form 8-K was filed on August 12, 2002, furnishing under Item 9 the sworn statements pursuant to an order issued by the Securities and Exchange Commission regarding the company's reports filed in 2001 and the first half of 2002. The executed sworn statements were furnished by R. David Hoover, Chairman of the Board, President and Chief Executive Officer of Ball Corporation, and by Raymond J. Seabrook, Senior Vice President and Chief Financial Officer of Ball Corporation.

A Current Report on Form 8-K was filed on August 15, 2002, furnishing under Item 9 the certifications pursuant to 18 U.S.C. Section 1380, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, by R. David Hoover, Chairman of the Board, President and Chief Executive Officer of Ball Corporation, and by Raymond J. Seabrook, Senior Vice President and Chief Financial Officer of Ball Corporation.

A Current Report on Form 8-K was filed on August 30, 2002, reporting under Item 5 an announcement that Ball Corporation entered into a definitive agreement with Schmalbach-Lubeca Holding GmbH and AV Packaging GmbH to acquire Schmalbach-Lubeca AG.

A Current Report on Form 8-K was filed on September 3, 2002, reporting under Item 7 selected historical financial data of Ball Corporation and Schmalbach-Lubeca AG, and furnishing under Item 9 a copy of the transcript of the conference call held by Ball Corporation on August 30, 2002, to announce its agreement to acquire Schmalbach-Lubeca AG.

A Current Report on Form 8-K was filed on September 4, 2002, reporting under Item 7, and furnishing under Item 9, a copy of the Webcast (Power Point) presentation used in the conference call held by Ball Corporation on August 30, 2002, to announce its agreement to acquire Schmalbach-Lubeca AG.

SIGNATURE

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

Ball Corporation
(Registrant)

By: /s/ Raymond J. Seabrook
Raymond J. Seabrook
Senior Vice President and
Chief Financial Officer

Date: November 13, 2002

Certification

I, R. David Hoover, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Ball Corporation;
2. Based on my knowledge, this quarterly 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 quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
 - a) Designed such disclosure controls and procedures 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 quarterly report is being prepared;
 - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
 - c) Presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) All significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: November 13, 2002

/s/ R. David Hoover
R. David Hoover
Chairman, President and Chief Executive Officer

Certification

I, Raymond J. Seabrook, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Ball Corporation;
2. Based on my knowledge, this quarterly 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 quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
 - a) Designed such disclosure controls and procedures 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 quarterly report is being prepared;
 - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
 - c) Presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) All significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: November 13, 2002

/s/ Raymond J. Seabrook
Raymond J. Seabrook
Senior Vice President and Chief Financial Officer

Ball Corporation and Subsidiaries
QUARTERLY REPORT ON FORM 10-Q
September 29, 2002

EXHIBIT INDEX

Description -----	Exhibit -----
Share Sale and Transfer Agreement between Schmalbach-Lubeca Holding GmbH, AV Packaging GmbH, Ball Pan-European Holdings, Inc., and Ball Corporation Dated August 29, 2002 (Filed herewith.)	EX-10.1
Subsidiary Guarantees of Debt (Filed herewith.)	EX-20.1
Safe Harbor Statement Under the Private Securities Litigation Reform Act of 1995, as amended (Filed herewith.)	EX-99.1

Share Sale and Transfer Agreement
between
Schmalbach-Lubeca Holding GmbH
AV Packaging GmbH
and
Ball Pan-European Holdings, Inc.
Ball Corporation
dated August 29, 2002

UR. Nr. H 2545 / 2002

NOTARIAL DEED

negotiated at Dusseldorf this 29 (twenty-ninth) an 30 (thirtieth) of August 2002 (two thousand and two)

Before me, the undersigned Notary Public

Dr. Armin Hauschild

at Dusseldorf today appeared:

1. Dr. Harald Selzner, born June 5, 1964, attorney-at-law, German citizen, with business address at Breite Str. 69, 40213 Dusseldorf known by person

here not acting in his own name but as representative in the name and on behalf of

Schmalbach-Lubeca Holding GmbH, a German limited liability company with business address at Breite Strasse 69, 40213 Dusseldorf, Germany,

- hereinafter referred to as "Seller" -

by virtue of certified power of attorney dated August 21/23, 2002 the original of which was presented to the Notary Public and a certified copy of which is attached to this Notarial Deed;

2. Dr. Olaf Muller-Michaels, born January 27, 1967, attorney-at-law, German citizen, with business address at Breite Str. 69, 40213 Dusseldorf known by person

here not acting in his own name but as representative in the name and on behalf of

AV Packaging GmbH, a German limited liability company with business address at Theresienstrasse 1-7, 80333 Munchen, Germany,

- hereinafter referred to as "Seller's Guarantor" -

by virtue of certified power of attorney dated August 21/23, 2002 the original of which was presented to the Notary Public and a certified copy of which is attached to this Notarial Deed;

3. Dr. Matthias Horbach, born February 25, 1966, attorney-at-law, German citizen, with business address at Frankfurter Welle 5/Reuterweg 18, 60322 Frankfurt am Main, known by person

here not acting in his own name but as representative in the name and on behalf of

- a) Ball Pan-European Holdings, Inc., a Delaware incorporated company with business address at 14270 Ramona Avenue, Chino, CA 91710, United States,

- hereinafter referred to as "Purchaser" -

by virtue of certified power of attorney dated August 26, 2002 the original of which was presented to the Notary Public and a certified copy of which is attached to this Notarial Deed;

- b) Ball Corporation, an Indiana incorporated company with business address at 10 Longs Peak Drive, Broomfield, CO 80021, United States,

- hereinafter referred to as "Purchaser's Guarantor" -

by virtue of certified power of attorney dated August 26, 2002 the original of which was presented to the Notary Public and a certified copy of which is attached to this Notarial Deed.

The Notary Public informed the persons appeared of the contents of Section 3 (1) No. 7 of the German Notarization Act (*Beurkundungsgesetz*). The persons appeared confirmed that the Notary Public and his firm have not been involved in the transaction at hand within the meaning of the provision referred to above.

The persons appeared requested this Notarial Deed including its Annexes to be notarized in the English language. The Notary Public who is in sufficient command of the English language ascertained that also the persons appeared are in sufficient command of the English language. After having been instructed by the Notary Public, the persons appeared waived the right to obtain the assistance of a sworn interpreter and to obtain a certified translation of this Notarial Deed including its Annexes.

The persons appeared, acting as stated above, requested the notarization of the following:

PREAMBLE

1. WHEREAS the Seller is a German limited liability company duly incorporated and validly existing under the laws of the Federal Republic of Germany and registered with the commercial register of the local court of Dusseldorf under HRB 42306; the Seller is engaged in the acquisition and holding of participations in other companies.
2. WHEREAS the Seller's Guarantor is a German limited liability company duly incorporated and validly existing under the laws of the Federal Republic of German and registered with the commercial register of the local court of Munchen under HRB 118049; the Seller's Guarantor is engaged in the acquisition and holding of participations in other companies.

3. WHEREAS the Purchaser is a corporation duly incorporated and validly existing under the laws of the State of Delaware, United States; the Purchaser is engaged in the acquisition and holding of participations in other companies.
4. WHEREAS the Purchaser's Guarantor is a corporation duly incorporated and validly existing under the laws of the State of Indiana, United States; the Purchaser's Guarantor is engaged in the design, manufacturing, marketing and sales of a wide range of metal containers and other packaging products.
5. WHEREAS the Seller is the majority stockholder of Schmalbach-Lubeca Aktiengesellschaft, a German stock corporation with business address at Kaiserswerther Strasse 115, 40880 Ratingen, Germany, duly incorporated and validly existing under the laws of the Federal Republic of Germany and registered with the commercial register of the local court of Ratingen under HRB 2733 (prior and subsequent to the conversion of legal form set forth in Section 14 below "Schmalbach"); the fully paid-in registered share capital of Schmalbach in the aggregate amounts to (Euro) 97,500,000 being divided into 97,500,000 bearer shares - without par value - (*auf den Inhaber lautende Stuckaktien*).
6. WHEREAS the shares in Schmalbach are listed at the stock exchanges in Dusseldorf, Hamburg, Hannover and Frankfurt am Main.
7. WHEREAS the Seller holds 95,195,304 bearer shares - without par value - in Schmalbach representing approx. 97.64% of the aggregate registered share capital of Schmalbach; the remaining 2,304,696 bearer shares - without par value - in Schmalbach representing approx. 2.36% of the aggregate registered share capital of Schmalbach are held by third party shareholders ("Minority Shareholders").
8. WHEREAS Schmalbach together with its subsidiaries listed in Annex 1 hereto ("BevCan Subsidiaries" and together with Schmalbach "BevCan Companies") is engaged in the design, manufacturing, marketing and sales of beverage cans ("BevCan Business").
9. WHEREAS on May 7, 2002 a stock purchase agreement ("Matrix Agreement") was concluded by and between Schmalbach (together with other sellers as listed in Annex 1 to the Matrix Agreement "Matrix Sellers") and Amcor Limited under which the subsidiaries of Schmalbach listed in Annex 2 hereto ("PET/White Cap Subsidiaries") which are engaged in the design, manufacturing, marketing and sales of polyethylene terephthalate bottles and containers ("Plastic Container Business") and metal, plastic and composite vacuum closures for glass, jars and plastic containers ("Closure Business" and together with the Plastic Container Business "Excluded Business") were directly or indirectly sold to Amcor Limited ("Matrix Transaction").
10. WHEREAS the Matrix Agreement was amended and restated as of July 1, 2002 and consummated, except as set forth in Annex 3 hereto, ("Matrix Closing") on the same date ("Matrix Closing Date").
11. WHEREAS the Matrix Agreement provides for a purchase price in the amount of (Euro) 1,725 million minus the sum of (i) the aggregate amount of the Holdbacks and (ii) the amount of the Assumed Third Party Debt plus (iii) the Cash Balance ("Matrix Purchase Price") which was due and payable at the Matrix Closing and which shall be adjusted, inter alia, in view of the Closing Working Capital Amount and the Closing Net Tangible Asset Amount (all as defined in the Matrix Agreement) as of the Matrix Closing Date on the basis of an audited balance sheet to be prepared within 45 business days after the Matrix Closing.
12. WHEREAS the amount of any increase or decrease of the Matrix Purchase Price resulting from such post-closing adjustments ("Final Matrix Purchase Price Adjustment") shall be due and payable within ten business days after delivery of the final statement (being the audited balance sheet as mutually agreed to by the parties of the Matrix Agreement or after the resolution of all disagreements between the parties of the Matrix Agreement) together with interest thereon at a rate equal to 5% per annum from the Matrix Closing Date to the date of payment.
13. WHEREAS on July 20, 2002 Schmalbach published in the Federal Gazette the invitation to its next annual shareholders meeting scheduled for August 30, 2002 ("Shareholders Meeting") that shall resolve upon squeeze-out proceedings ("Squeeze-Out") pursuant to Sections 327a et seq. of the German Stock Corporation Act (*Aktiengesetz, AktG*), under which all shares in Schmalbach held by the Minority Shareholders will be transferred, by operation of law, to the Seller against compensation in cash to be paid by the Seller to the Minority Shareholders.
14. WHEREAS it is intended to convert Schmalbach into the legal form of a German limited liability company ("Conversion") as soon as reasonably possible after the Squeeze-Out is completed by registration with the competent commercial register (Schmalbach converted into the legal form of a German limited liability company hereinafter "Company" and all future limited liability shares in the Company created by the Conversion hereinafter "Company Shares").
15. WHEREAS the Seller is interested to sell and transfer the Company Shares to the Purchaser as described in more detail in this Agreement, while the Purchaser is interested to acquire the Company Shares in this form.
16. WHEREAS the parties have agreed that, on, or prior to, the Closing Date (as defined in Part IX Section 3 below) and based on the terms and conditions of this Agreement and its Annexes, certain transactions may be effected to enable subsidiaries of the Purchaser's Guarantor to directly purchase the stock of certain of the BevCan Companies from Matrix as set forth in Annex 4 hereto ("Direct Purchases").

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

**I.
SALE AND TRANSFER OF COMPANY SHARES**

1. On the terms set forth herein, the Seller hereby sells and, subject to the satisfaction or, if applicable, waiver of all conditions set forth in Part IX Sections 1 and 2 below, transfers to the Purchaser, who accepts such sale and transfer, the Company Shares with all dividend and dividend drawing rights (*Gewinn- und Gewinnbezugsrechte*) relating to profits not yet distributed on the Closing Date and all subscription and other rights pertaining to the Company Shares.
2. The Seller undertakes to procure that, if required under the Company's articles of association, prior to the Closing Date, the shareholders' meeting of the Company and the Company will consent to the sale and transfer of the Company Shares.
3. The parties hereby irrevocably instruct the Notary Public to notify the commercial register of the local court of Ratingen, however, without submitting a copy of this Notarial Deed, as to the sale and transfer of the Company Shares in accordance with Section 40 of the German Act on Limited Liability Companies (*GmbH-Gesetz, GmbHG*), upon receipt by the Notary Public of a certified excerpt of the commercial register of the Company reflecting the registration of the Conversion.
4. The parties hereby irrevocably instruct the Notary Public to notify the Company as to the sale and transfer of the Company Shares in accordance with Section 16 of the German Act on Limited Liability Companies (*GmbH-Gesetz, GmbHG*) subject, however, to the receipt of the parties' written confirmation by the Notary Public that all conditions set forth in Part IX Sections 1 and 2 below have been satisfied. The parties hereto shall be obligated to issue such written confirmation to

the Notary Public upon such satisfaction.

The Notary Public shall notify the Company by submitting a copy of this Notarial Deed (excluding Parts II to VIII below and annexes).

5. Schmalbach is registered with the revenue office in Dusseldorf-Mettmann under tax registration number 147/5769/0019. Schmalbach does own real estate.
6. Following the completion of the Squeeze-Out and the Conversion but prior to the Closing Date, the Seller shall be entitled to transfer the Company Shares, by sale or otherwise, to the Seller's Guarantor or a direct or indirect wholly owned subsidiary of the Seller's Guarantor ("Seller's Nominee"), provided, however, that the Seller's Nominee will join this Agreement replacing the Seller by the assumption of any and all rights and obligations of the Seller under this Agreement and effecting the sale and transfer of the Company Shares as set forth in Section 1 above. The parties hereto undertake to notarize a respective amendment to this Agreement immediately upon request of the Seller. It is acknowledged by the parties hereto, however, that nothing in this Section 6 shall affect or limit the liability of the Seller's Guarantor under this Agreement.

**II.
COVENANTS
INDEMNIFICATION UNDERTAKINGS**

1. As from the date hereof until the Closing Date, the Seller shall use, upon reasonable written notice, all efforts which can be reasonably expected to allow the Purchaser, its representatives and its financing sources, to the extent legally possible, access to the BevCan Companies, provided that such access does not unreasonably disrupt the conduct of the BevCan Business, and to cooperate with the Purchaser and the Purchaser's representatives in relation to all material matters concerning the operation of the BevCan Business.
2. The parties hereto shall use all efforts which can be reasonably expected to properly make and conduct as soon as reasonably possible after the date hereof all merger control and other regulatory proceedings as set forth in Annex 5 hereto required in respect of the transactions contemplated by this Agreement, provided that, if necessary in order to obtain approval of competent merger control authorities, the Purchaser shall be required to divest business activities representing up to 7.5% of the profits generated in the BevCan Business in 2001.
3. The parties hereto shall use all efforts which can be reasonably expected to procure that the conditions set forth in Part IX Sections 1 and 2 below will be satisfied prior to January 31, 2003.
4. The Seller undertakes to procure that all members (other than the employee representatives) of the supervisory board of Schmalbach resign, upon request of the Purchaser, from their positions effective as of the Closing Date. The Seller shall, and shall cause Schmalbach to, take all necessary steps and actions to cause a meeting of the supervisory board of Schmalbach to be held immediately following the Closing Date.
5. The parties hereto agree that the Seller shall be entitled to procure that certain rights and obligations of Schmalbach or any other of the Matrix Sellers under the Matrix Agreement (including those under Section 5.18 and Article 9 of such Agreement), shall be assigned and transferred to an Affiliate of the Seller (other than the BevCan Companies) or to a third party nominated by the Seller prior to the Closing Date subject to the provision in Section 10.8 (ii) of the Matrix Agreement.
6. The parties hereto acknowledge and agree that the Seller shall be entitled and obliged to cause (i) the transfer of assets of the BevCan Companies set forth in Annex 6 hereto on the terms specified therein to an Affiliate of the Seller (other than the BevCan Companies), or to a third party nominated by the Seller, prior to, or on, the Closing Date ("Asset Transfer") and (ii) the mergers (*Verschmelzungen*) of Continental Can Europe Beteiligungsgesellschafts mbH and White Cap Europe GmbH into Schmalbach, ("Restructuring" and together with the Asset Transfer "Carve-Out"). The Seller undertakes to indemnify and hold the Purchaser and the BevCan Companies fully and in good time harmless from any Liabilities, accrued or contingent, based on, or resulting from, the Carve-Out.
7. The Seller shall use all efforts which can be reasonably expected to promote the transactions under this Agreement with a view to the employees of the BevCan Companies set forth in Annex 7 hereto not terminating their employment agreements with the respective BevCan Company in connection with, or as a result of, the transactions under this Agreement.
8. In respect of the Matrix Transaction, the Excluded Business and certain other transactions, the following shall apply:
 - (a) The Seller undertakes to indemnify and to hold the BevCan Companies (and their respective officers, directors, employees, commercial agents (*Handelsvertreter*), other than in cases of gross negligence, intent, fraud or willful misconduct) (collectively "Indemnified Parties") fully and in good time harmless from all obligations and Liabilities, accrued or contingent, based on, or resulting from:
 - (i) the Matrix Transaction (other than obligations of Schmalbach, if any, resulting from the Final Matrix Purchase Price Adjustment),
 - (ii) the Excluded Business,
 - (iii) the agreements set forth in Annex 8 hereto,
 - (iv) the non-performance by Impress Metal Packaging GmbH and Co. oHG ("Impress") of the indemnification claim of Schmalbach under Art. 6.2 of the German Sale and Purchase Agreement between Schmalbach, Impress and DH Projects GmbH dated May 28, 1997 ("Impress Agreement") relating to pensions liabilities towards certain retired employees,
 - (v) the termination of employment agreements of employees transferred from the BevCan Companies (or any of their Affiliates as of the date of the execution of the Matrix Agreement) to the PET/White Cap Subsidiaries (or any of their Affiliates or Amcor Limited) in connection with the Matrix Transaction,
 - (vi) the distribution of proceeds from the Matrix Transaction, including any corporate and withholding Taxes and payments to employees of dividend related bonuses and related Taxes, and
 - (vii) other than any Pension Liabilities reflected in the Final Closing Financial Statements (as defined in Part IV Section 5 below), any obligations or Liabilities of any of the BevCan Companies to any employees or former employees of the Excluded Business or other non-BevCan Businesses, including, without limitation, any severance obligations or obligations under (or to maintain or contribute to) any benefit, bonus, retention bonus, pension, compensation profit sharing or other employee benefit plans,except to the extent such obligations and Liabilities (a) are covered by payments of insurance companies (but

including in the amounts indemnified the net present value (calculated using a discount rate of 7% per annum) of any increases in present or future premiums (limited to a period of up to five years) for the respective line of insurance concerned, which are proved by the Purchaser to be directly and specifically caused by the payment of the respective insurance company) or of other third parties; provided, however, that the Indemnified Parties use all efforts which can be reasonably expected to pursue the respective payment claims against the relevant insurance company or other third parties and that any costs reasonably incurred by the Indemnified Party in pursuing such claims shall be included in the amounts indemnified, or (b) are based on a breach by the BevCan Companies of the Matrix Agreement, any of the agreements set forth in Annex 8 hereto or the Impress Agreement, which occurred after the Closing Date.

- (b) Any indemnification undertaking of the Seller pursuant to lit. (a) above, however, shall be reduced if and to the extent non-compliance by the Purchaser or the Indemnified Parties with the obligations pursuant to lit. (c) and (d) below prejudices or otherwise adversely affects the legal position of the Seller. Any indemnification undertaking of the Seller pursuant to lit. (a) above shall bear default interest at a rate of 9% per annum. The Purchaser undertakes to procure that claims of the BevCan Companies against third parties, which could not be successfully pursued, shall be transferred and assigned to the Seller reciprocally and simultaneously upon the making of the indemnification payment by the Seller under lit. (a) above.
- (c) The Purchaser undertakes to procure that an Indemnified Party shall (i) inform the Seller without undue delay about any claim or proceedings which may give rise to an indemnification under this Section 8 and (ii) upon the Seller's acknowledgement of its obligation to indemnify the Indemnified Parties for such matters, (x) not make any binding declarations to any third party regarding such claim or proceeding without the prior written instruction of the Seller and (y) take such actions as the Seller may instruct, at the Seller's expense, to avoid, defend, dispute or settle such claim; provided, however, that an Indemnified Party shall not be obligated to make an admission of any violation of Law or agree to court injunctions that would materially adversely affect the business operations of the BevCan Companies.

The Purchaser shall furthermore procure that the Seller and its employees, professional advisors and other representatives shall, upon reasonable request, be granted, to the extent legally possible, full access during normal business hours to all relevant books and records and personnel of the BevCan Companies to the extent necessary or appropriate to avoid, defend, dispute or settle such claim or proceedings.

- (d) The Purchaser shall use all efforts which can be reasonably expected to procure, at the Seller's expense and under its direction, that all Matrix Sellers, based upon and in compliance with the Seller's instructions, shall assert, execute and enforce without undue delay any rights and claims, and shall fully comply with, and perform, all obligations, under the Matrix Agreement, including but not limited to, those in connection with the Final Matrix Purchase Price Adjustment and the Specified Interest Agreements under Article 5 Section 5.5 of the Matrix Agreement (including Annex X thereto).

The Purchaser shall furthermore procure that the Seller and its employees, professional advisors and other representatives shall, upon reasonable request, be granted, to the extent legally possible, full access during normal business hours to all relevant books and records and personnel of the BevCan Companies to the extent necessary or appropriate to assert, execute or enforce such rights and claims.

The Purchaser undertakes to reimburse the Seller in the amount of any payments received by any of the Matrix Sellers or any other BevCan Company in connection with the assertion, execution and enforcement of any rights and claims under the Matrix Agreement as set forth under this lit. (d) other than the Final Matrix Purchase Price Adjustment; provided, that the Purchaser shall deduct from any amounts reimbursed to the Seller all external costs reasonably incurred by the Purchaser, the Matrix Sellers or any of the BevCan Companies in asserting, executing and enforcing any of such rights and claims.

9. The Seller undertakes to procure, that, as soon as reasonably possible following the Shareholders Meeting, the Squeeze-Out shall be rapidly effected and completed by registration with the competent commercial register.
10. The Seller undertakes to procure that, as soon as reasonably possible after the completion of the Squeeze-Out, the Conversion shall be rapidly effected and completed by registration with the competent commercial register with articles of association agreed to by the Purchaser.
11. The parties hereto are in agreement that, prior to the Closing Date, each of the BevCan Companies shall take all necessary action, so that, as at the Closing Date, there is no outstanding Indebtedness relating to any of the BevCan Companies other than an account receivable securitization program with a maximum Euro equivalent size of (Euro) 75,000,000 (in words: Euro seventy-five million) and environmental loans of approximately (Euro) 20,000,000 (in words: Euro twenty million) and as set forth in sentence 3 below, unless agreed to in writing by the Purchaser, whose agreement shall not be unreasonably withheld. The Seller shall not be liable for Taxes, if any, of the BevCan Companies in connection with, or resulting from, the repayment of outstanding Indebtedness under this Section 11. The Seller shall procure that Schmalbach will arrange for a cash collateral deposit with (i) Westdeutsche Landesbank in the amount of any outstanding Indebtedness under the loan facility of Continental Can Company Ltd., United Kingdom, with Westdeutsche Landesbank and (ii) Commerzbank in the amount of any outstanding Indebtedness of the loan facility of Schmalbach-Lubeca Nederland B.V. with Commerzbank.
12. The parties hereto acknowledge and agree that the Seller shall be entitled and obliged to cause and effect interim profit distributions of (i) the BevCan Subsidiaries to the Company and (ii) the Company to the Seller, all as set forth in Annex 9 hereto ("Company Distributions"), as soon as both the Conversion and the Carve-Out have been consummated and all registrations with commercial registers or other authorities required to legally effect the Conversion and the Carve-Out, if any, have been duly made and completed. In case the Squeeze-Out should not be registered by October 15, 2002, the Company Distributions shall not be effected prior to January 10, 2003.
13. Each of the parties hereto shall use all efforts which can be reasonably expected to take, or cause to be taken, all appropriate action, do or caused to be done, all things necessary, proper or advisable under applicable Laws, and to execute and deliver such documents and other papers, as may be required to carry out the provisions of this Agreement and consummate and make effective the transactions contemplated by this Agreement. However, nothing in this Section 13 shall obligate any of the parties hereto to incur any material, direct or indirect, financial exposure or liability.
14. Subject to the satisfaction of the conditions set forth in Part IX Section 1 lit. (a), (b), (c), (d), (e), (f) and (h) and Part IX Section 2 below, the parties hereto undertake to procure that, on, or prior to, the Closing Date, the Direct Purchases may be executed and consummated as described in Annex 4 hereto. The Purchaser undertakes to indemnify and hold the Seller and its Affiliates (other than the BevCan Companies) fully and in good time harmless from any Liabilities, accrued or contingent, based on, or resulting from, the Direct Purchases.
15. The parties hereto are in agreement that Schmalbach shall cooperate and provide such assistance as is necessary for the Purchaser or its advisors to prepare those carve-out financial statements as set forth in Annex 10 hereto ("Carve-Out Financial Statements") and the reconciliation of the Carve-Out Financial Statements with US GAAP ("Reconciliation"), including, without limitation, providing to PricewaterhouseCoopers and the Purchaser by September 13, 2002 all such

information required for the production of the Carve-Out Financial Statements and the Reconciliation. The Purchaser may engage PricewaterhouseCoopers in connection with the preparation of the Carve-Out Financial Statements and the Reconciliation.

It is agreed and understood that Schmalbach shall not make any representation or warranty as to the Carve-Out Financial Statements and the Reconciliation other than that any financial information from the accounting records of any of the BevCan Companies provided by Schmalbach to PricewaterhouseCoopers, or to the Purchaser for the preparation of the Carve-Out Financial Statements and the Reconciliation, shall be true and correct in all material respects. It is further agreed and understood by the parties hereto that any external costs and expenses related to the production of the Carve-Out Financial Statements and the Reconciliation shall be borne by the Purchaser.

16. If the Closing shall not have occurred prior to November 14, 2002, the Seller shall promptly deliver to the Purchaser unaudited pro-forma consolidated financial statements for the BevCan Companies for the nine months ended September 30, 2002.
17. The Purchaser and the Purchaser's Guarantor shall use all efforts which can be reasonably expected to procure that the conditions to funding set forth in the financing commitment letters referred to in Part IX Section 2 lit. (a) below, obtained to enable the Purchaser's Guarantor and the Purchaser to complete the transactions contemplated by this Agreement, shall have been satisfied on the Closing Date.
18. The Seller undertakes to procure that, as soon as reasonably possible after the date hereof but in any event prior to the Closing Date the technical and know-how license agreement between Enval Corretera San German (Cuba) and Schmalbach dated October 28, 1999 shall be terminated.
19. The Seller shall use all efforts which can be reasonably expected to procure that Impress Metal Packaging B.V. shall transfer to the relevant the BevCan Company all rights, title and interest in the liquid nitrogen patent PCT/NL 98/00187 prior to the Closing Date.

III. CONSIDERATION

1. The entire consideration for the sale and transfer of the Company Shares and for all other obligations assumed by the Seller under this Agreement shall be (Euro) 1,175,000,000 (in words: Euro one billion one hundred seventy five million) less the consolidated Net Purchase Price Adjustments (as defined below) of the BevCan Companies ("Purchase Price") subject, however, to the adjustments set forth in Sections 3 to 6 below. On the Closing Date, the Purchaser shall pay the Seller (Euro) 922,300,000 (in words: Euro nine hundred twenty two million three hundred thousand) ("Estimated Purchase Price").

For purposes of this Agreement, "Net Purchase Price Adjustments" means (x) the sum of (i) the Applicable Pension Liabilities (as defined below), (ii) the amount of Indebtedness set forth in the Final Closing Financial Statements, (iii) the ABS Liabilities set forth in the Final Closing Financial Statements and (iv) all payment obligations of the BevCan Companies under the OTIP not fully settled at or prior to the Closing Date, reduced by (y) the sum of cash and cash equivalents set forth in the Final Closing Financial Statements (except for an amount equal to USD 6,800,000 (in words: US Dollars six million eight hundred thousand)).

"Applicable Pension Liabilities" means an amount of (Euro) 251,000,000 (in words: Euro two hundred fifty one million) as mutually agreed by the parties hereto, reduced by an amount of (Euro) 5,200,000 (in words: Euro five million two hundred thousand) representing Pension Liabilities relating to former employees of Impress.
2. The Estimated Purchase Price shall be increased or decreased, as the case may be, Euro for Euro, by the amount the Purchase Price (before making any adjustments under Sections 3 to 6 below) exceeds or falls short of, as the case may be, the Estimated Purchase Price.
3. The Purchase Price shall be increased or decreased, as the case may be, Euro for Euro, by the amount the consolidated Net Working Capital (as defined in Annex 12 hereto) of the BevCan Companies as reflected in the Final Closing Financial Statements exceeds or falls short of, as the case may be, the applicable monthly floor set forth for the Closing Date in Annex 12 hereto.
4. The Purchase Price shall further be increased or decreased, as the case may be, Euro for Euro, by the amount the cumulative consolidated Capital Expenditures (as defined in Annex 13 hereto) of the BevCan Companies, relating to the period from the date hereof to the Closing Date, as reflected in the Final Closing Financial Statements exceed or fall short of, as the case may be, the applicable monthly floor set forth for the Closing Date in Annex 13 hereto.
5. The Purchase Price shall further be increased or decreased, as the case may be, Euro for Euro, by the amount equal to amount received or paid, as the case may be, by the Matrix Sellers in the Final Matrix Purchase Price Adjustment, except to the extent the Final Matrix Purchase Price Adjustment has been received or paid by the Matrix Sellers, as the case may be, prior to the Closing Date.
6. The Purchase Price shall further be decreased, Euro for Euro, if and to the extent that the difference between (i) the Pension Liabilities under the UK pension plan as determined as of the Closing Date calculated using the ABO methodology consistent with past practice, and (ii) the UK Pension Assets as determined as of the Closing Date (as calculated by a mutually agreed independent actuary) exceeds GBP 3,000,000 (in words: British pounds three million).
7. The Purchase Price, including adjustments pursuant to Sections 2 to 6 above, if any, shall be due and payable as follows:
 - (a) The Estimated Purchase Price shall be due and payable on the Closing Date by money transfer to the Seller's account number 15 700 43 with Deutsche Bank in Munchen (bank reference number 700 700 10).
 - (b) The adjustments to the Estimated Purchase Price and the Purchase Price pursuant to Sections 2 to 4 and 6 above, if any, shall be due and payable within ten business days of the Frankfurt am Main Stock Exchange ("Business Days") after the submission of the Final Closing Financial Statements, in case of an increase of the Purchase Price by money transfer to the Seller's bank account set forth in lit. (a) above and in case of a decrease of the Purchase Price by money transfer to a bank account to be designated by the Purchaser at least five Business Days prior to the Closing Date.
 - (c) The adjustment to the Purchase Price pursuant to Section 5 above, if any, shall be due and payable within 20 Business Days after delivery of the final statement under Article I Section 1.6 lit. (c) of the Matrix Agreement, in case of an increase of the Purchase Price by money transfer to the Seller's bank account set forth in lit. (a) above and in case of a decrease of the Purchase Price by money transfer to the Purchaser's bank account set forth in lit. (b) above.
8. Any payment resulting from an adjustment to the Purchase Price pursuant to Sections 2, 3, 4 or 6 above shall bear interest at a rate of 7% per annum from the Closing Date to the date of payment. In case of default in the payment

of the adjustment to the Estimated Purchase Price or the Purchase Price, such payment in default shall bear interest at a rate of 9% per annum.

- The Purchaser shall not be entitled to set-off any potential claims against the Purchase Price or any increase thereof or to withhold, for any legal reason, the Purchase Price or any increase thereof except for the right of the Purchaser to set-off (i) any claims for a breach of representations or warranties or (ii) any claims under the indemnifications provided in this Agreement, provided that claims under lit. (i) and (ii) have been acknowledged by the Seller or have been determined by a final (*rechtskraftig*) award. The Seller shall not be entitled to set-off any potential claims against any decrease of the Purchase Price or to withhold, for any legal reason, any decrease of the Purchase Price, unless such claims have been acknowledged by the Purchaser or have been determined by a final (*rechtskraftig*) award,

IV. CLOSING FINANCIAL STATEMENTS

- For the purposes of Part III Section 2 to 4 and 6 above, the consolidated Net Purchase Price Adjustments and the consolidated Net Working Capital of the BevCan Companies as of the Closing Date as well as the consolidated Capital Expenditures of the BevCan Companies relating to the period from the date hereof to the Closing Date shall be determined on the basis of consolidated financial statements of the BevCan Companies as of the Closing Date pursuant to the provisions of this Part IV ("Closing Financial Statements").
- The Closing Financial Statements shall be prepared on the basis of proper bookkeeping and in accordance with accounting, valuation and depreciation principles under International Accounting Standards (IAS). Such principles shall in each case be applied consistently and without change as in the preceding year. All risks, devaluations and losses ascertainable on the Closing Date shall be duly provided for by sufficient depreciations, changes of evaluation or reserves.

The Closing Financial Statements shall be prepared with a full physical count, EDP conducted permanent count or on the basis of spot checks, as appropriate, of all inventories of the BevCan Companies as of the Closing Date and in line with the Schmalbach Accounting Manual dated August 2002, a copy of which has been delivered to the Purchaser prior to the date hereof, and applying the Schmalbach Chart of Accounts (CCoA 4.0) attached as Annex 14 hereto.
- The Closing Financial Statements shall be prepared by the Seller and PricewaterhouseCoopers, Dusseldorf, in cooperation with the BevCan Companies as soon as reasonably possible, but in no event later than 60 Business Days following the Closing Date. The Seller shall have the right to have the Closing Financial Statements audited by PricewaterhouseCoopers, Dusseldorf. The Purchaser undertakes to procure that the Seller and its employees, professional advisors and other representatives shall, upon reasonable request, be granted, to the extent legally possible, full access during normal business hours to all relevant books and records and personnel of the BevCan Companies to the extent necessary or appropriate to prepare, and to audit, the Closing Financial Statements.
- After receipt of the Closing Financial Statements, the Purchaser shall have 30 Business Days to review them. Unless the Purchaser delivers written notice to the Seller on or prior to the 30th Business Day after receipt of the Closing Financial Statements specifying in reasonable detail its objections to the Closing Financial Statements, the parties hereto shall be deemed to have accepted the Closing Financial Statements. If the Purchaser notifies the Seller of an objection to the Closing Financial Statements, the parties hereto shall within 30 Business Days following the date of such notice ("Resolution Period") attempt to solve the differences. Any resolution shall be final.
- If, at the conclusion of the Resolution Period, the Purchaser and the Seller have been unable to resolve all of their disagreements, they shall submit the items remaining in dispute for resolution to Ernst and Young ("Independent Accounting Firm"). The Independent Accounting Firm shall, within 30 Business Days after such submission, determine and report to the Purchaser and the Seller upon such dispute. The written report of the Independent Accounting Firm shall be written in English, and shall be final. The fees and disbursements of the Independent Accounting Firm shall be paid by the Purchaser and the Seller in the inversed proportion of the value of those items submitted to the Independent Accounting Firm which are resolved in favor of the Purchaser and the Seller, respectively. The term "Final Closing Financial Statements" shall mean the definitive Closing Financial Statements agreed to by the Seller and the Purchaser in accordance with Section 4 above and resulting from the determinations made in accordance with this Section 5, if any.

V. REPRESENTATIONS AND WARRANTIES

Based on, and subject to, the limitations set forth in Part VI below, the Seller hereby represents and warrants (in the form as set forth in Part VI Section 1 below) that the following statements are true and correct as of the date hereof or such other date as expressly stated hereinafter subject, however, to the provisions in Section 26 below:

- The statements set forth in Sections 5, 6 and 7 of the Preamble hereof as to Schmalbach and the shares in Schmalbach are true and correct. The shares in Schmalbach held by the Seller are booked to the security deposit account of the Seller no. 15 700 43 at Deutsche Bank, Munchen, and a copy of the respective bank statement of the security deposit account is attached as Annex 15 hereto.
- As of the Closing Date, the Company shall be a German limited liability company and all of the Company Shares shall be held by the Seller prior to the transfer of the Company Shares pursuant to Part I Section 1 above. On the Closing Date, the Company Shares shall be fully paid-in, not repaid, non-assessable and free and clear of secondary or other obligations or restrictions; no share certificates shall have been issued with regard to the Company Shares. On the Closing Date, there shall be no claims for the granting of any of the Company Shares, and all Company Shares shall be free from rights of third parties of any type whatsoever and there are no claims for the granting of such rights or the transfer of any of the Company Shares.
- As of the Closing Date, Annex 1 hereto shall set forth a true and correct list of all direct or indirect subsidiaries of Schmalbach, listing for each subsidiary its name, type of entity, the jurisdiction and date of its incorporation or organization, its authorized capital stock, partnership capital or equivalent, the number and type of its issued and outstanding shares of capital stock, partnership interests or similar ownership interests and the ownership of such shares, partnership interests or similar ownership interests held by any of the BevCan Companies.
- As of the Closing Date, each of the BevCan Companies shall be duly incorporated and validly existing under the Laws of its respective jurisdiction and have the full power and authority to own and lease its properties and assets and to carry on its business as it is now being conducted.

As of the Closing Date, the shares in any of the BevCan Subsidiaries held by any of the BevCan Companies, as shown in Annex 1 hereto, shall be fully paid-in, not repaid, non-assessable and, except as set forth in Annex 16 hereto, free and clear of secondary or other obligations or restrictions. As of the Closing Date, all shares in the BevCan Subsidiaries held by any of the BevCan Companies shall be free from all rights of third parties of any type whatsoever and there shall be no claims for the granting of such rights or the transfer of such shares.
- Except as set forth in Annex 17 hereto, there shall be, as of the Closing Date, no outstanding (a) securities convertible

into or exchangeable for, directly or indirectly, the capital stock of any of the BevCan Companies, (b) subscriptions, options, warrants, stock appreciation rights, profit participation rights, phantom stock, calls, rights, agreements, commitments or restrictions relating to the issuance, sale, repurchase, redemption, transfer or voting of any shares of capital stock of any of the BevCan Companies or (c) contractual obligations of any of the BevCan Companies to provide funds to, or make any investment in, any Person other than any of the BevCan Companies.

6. Except as set forth in Annex 18 hereto, as of the Closing Date, neither the execution, delivery or performance of this Agreement by the Seller's Guarantor and the Seller nor the consummation of the transactions contemplated hereby will conflict with, or violate, any provision of the organizational documents of the Seller's Guarantor, the Seller or any of the BevCan Companies.
7. (a) The audited consolidated financial statements of Schmalbach for the financial years ending December 31, 2000 and 2001 ("Schmalbach Financial Statements"), delivered to the Purchaser prior to the date hereof, have been prepared in accordance with IAS, the Schmalbach Accounting Manual dated August 2002 and the Schmalbach Chart of Accounts, as amended from time to time, consistently applied as in the preceding year. The Schmalbach Financial Statements fairly present the consolidated financial position of Schmalbach as of the respective dates thereof and the results of operations for the periods indicated therein.
- (b) The unaudited pro-forma, consolidated financial statements of the BevCan Companies for the six months ending June 30, 2002 ("Schmalbach Pro-Forma Financial Statements") attached as Annex 19 hereto have been derived, inter alia, from unaudited financial statements of the BevCan Subsidiaries for the six months ending June 30, 2002 which in turn have been prepared on a basis consistent with accounting principles applicable to the audited consolidated financial statements of Schmalbach for the financial year ending December 31, 2001, subject, however, to the pro-forma principles as described in Annex 19 hereto.
- The Schmalbach Pro-Forma Financial Statements fairly present, in all material respects, the consolidated financial position of the BevCan Companies as of June 30, 2002 and the results of operations for the six month period ending June 30, 2002, based on, and subject to, the pro-forma principles set forth in Annex 19 hereto. The parties hereto agree and acknowledge that the pro-forma principles described in Annex 19 hereto may not be fully consistent with IAS with respect to the following areas: (a) format and classification of balance sheet and income statement, (b) omission of notes and disclosures and (c) missing pro-forma opening balance sheet.
- When additional financial statements are provided pursuant to Part II Section 16 above, such statements shall be deemed to be Schmalbach Pro-Forma Financial Statements, as of the date thereof, for purposes of this representation and warranty.
- (c) Those audited statutory financial statements of the BevCan Subsidiaries for the financial years ending December 31, 2000 and 2001 (collectively "BevCan Financial Statements"), set forth in Annex 20 hereto, have been prepared in accordance with the respective home country generally accepted accounting principles. The BevCan Financial Statements have been derived from the books and records of the BevCan Subsidiaries which have been maintained, in all material respects, in accordance with all applicable Laws.
8. Except for the Squeeze-Out, the Conversion, the Carve Out and the Company Distributions as well as other transactions contemplated by this Agreement and except as set forth in Annex 21 hereto, from June 30, 2002 until the date hereof, each of the BevCan Companies has conducted its business only in the ordinary course consistent with past practice.
9. From the date hereof until the Closing Date, except for the Squeeze-Out, the Conversion, the Carve Out and the Company Distributions as well as any other transactions contemplated by this Agreement and except as set forth in Annex 21 hereto, each of the BevCan Companies shall conduct its business only in the ordinary course consistent with past practice and shall make all required Tax payments and filings when due.
- From the date hereof until the Closing Date, the Matrix Agreement shall not be amended in any manner that could adversely affect any rights or obligations of the Matrix Sellers thereunder or the Purchaser's rights and obligations hereunder other than as set forth under this Agreement.
- From the date hereof until the Closing Date, except for the Squeeze-Out, the Conversion, the Carve Out and the Company Distributions as well as any other transaction contemplated by this Agreement and except as set forth in Annex 22, the Seller shall not dispose of or encumber any company Shares and each of the BevCan Companies shall not, except with the prior written consent of the Purchaser, such consent not to be unreasonably withheld:
- (a) (i) amend its articles of association, by-laws or similar organizational documents; (ii) issue or sell any capital stock, notes, bonds or other securities, or any option, warrant or other right to acquire the same, of any of the BevCan Companies; or (iii) redeem any of its capital stock, or declare, make or pay any dividends or distributions to the holders of its capital stock, other than the Company Distributions;
- (b) acquire (by merger, consolidation or acquisition of stock or assets) any business organization or division thereof or any equity interest therein;
- (c) (i) modify, amend or terminate any of the Principal Agreements or waive, release or assign any rights or claims thereunder or (ii) enter into any agreement which, if effective as of the date hereof, would constitute a Principal Agreement, except for customer and supply agreements in the ordinary course of business consistent with past practice;
- (d) except for the investment of the proceeds resulting from the Matrix Transaction, cash investments in the ordinary course of business and except for loans to employees of any of the BevCan Companies as of the Closing Date not exceeding (Euro) 50,000 (in words: Euro fifty thousand) (or the equivalent thereof in any other currency) in the individual case and (Euro) 250,000 (in words: Euro two hundred and fifty thousand) (or the equivalent thereof in any other currency) in the aggregate, make any loans, advances or capital contributions to, or investments in, any Person other than any of the BevCan Companies other than ordinary course changes in credit terms;
- (e) encumber any of its assets or properties other than Permitted Encumbrances (as defined in Part X Section 1 below) as well as other Encumbrances that will be released at or prior to the Closing Date;
- (f) grant any increases in compensation payable or benefits provided to its directors, officers or employees (including any such increase pursuant to any benefit plan), except in the ordinary course of business consistent with past practice or as required by any existing individual employment agreement or by any collective bargaining agreement in effect as of the date hereof;
- (g) cancel, terminate, modify or amend any material Insurance Policy (as defined in Section 16 below) other than in the ordinary course of business;
- (h) acquire, sell, lease or dispose of any assets, other than in the ordinary course of business consistent with past

practice or as provided for in the 2002 budget of the BevCan Companies;

- (i) dispose of, or fail to maintain the registration of, any material Intellectual Property Rights (as defined in Section 12 below);
 - (j) waive, release or assign any other rights of substantial value, except in the ordinary course of business consistent with past practice and except for possible settlements with Coca Cola and PPG with regard to claims relating to internal lacquer issues arising in January 2002;
 - (k) adopt or initiate a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other corporate reorganization;
 - (l) make any changes in its accounting methods, principles or practices unless required by IAS, local GAAP or applicable Laws;
 - (m) enter into any derivative or hedging positions other than those set forth on Annex 51 (it being agreed and understood that the BevCan Companies shall not be deemed to be in breach of this Section 9 lit. (m) if they enter into any such positions, but close out of such positions prior to the Closing Date); and
 - (n) enter into any agreement, contract, commitment or arrangement to do any of the foregoing.
10. Except as set forth in Annex 23 hereto, each of the BevCan Companies has full, unrestricted and unencumbered title to all tangible and intangible assets which serve or are destined to serve the BevCan Business except for those tangible assets which are leased in the ordinary course of business or which are subject to retention of title (*Eigentumsvorbehalt*) agreed in the ordinary course of business consistent with past practice.
- Except as set forth in Annex 24 hereto, the plants, machinery, systems and equipment owned, leased or used by the BevCan Companies are in good operating condition and repair (normal wear and tear excepted), other than such defects which would not interfere with the operations of any of the plants owned, leased or used by the BevCan Companies as such plants have been operated in the ordinary and usual course of business consistent with past practice.
- Except as set forth in Annex 25 hereto, the BevCan Companies own, lease or have the legal right to use all the material assets and properties necessary to permit the operation of the BevCan Business in the same manner as it is currently conducted.
11. Annex 26 hereto sets forth a complete list and the location of all real property that is owned by any of the BevCan Companies ("Real Property"). The respective BevCan Company has good and marketable title to the Real Property free of any Encumbrances (other than Permitted Encumbrances) or as identified in Annex 27 hereto. There are no conditions affecting any Real Property that might curtail or interfere with the use of such property in the ordinary course of business consistent with past practice.
12. (a) Except as set forth in Annex 28 hereto, no current or former employees of the BevCan Companies are receiving or have a right to receive remuneration for inventions (whether patentable or unpatentable) either under the German Employee Invention Act or otherwise (other than normal compensation) and no current or former employee has made a written claim for such remuneration.
- (b) Except as set forth in Annex 29 hereto, there are no written claims or pending litigation actions from third parties that any of the products being manufactured and sold by any of the BevCan Companies or their respective licensees or any of the processes, methods, techniques or equipment (collectively "Means of Manufacture") used by any of the BevCan Companies or their respective licensees, including but not limited to any processes, methods, techniques or equipment which any of the BevCan Companies or their respective licensees contemplates using in its non-contact printing technology, infringe, potentially infringe, misappropriate or otherwise contravene any patents, patent applications, copyrights, trade marks, trade secrets or other intellectual property rights (collectively "Intellectual Property Rights") of third parties. None of the BevCan Companies has received any written opinions or other written legal advice that any of the said products or Means of Manufacture infringe or potentially infringe as aforesaid.
- None of the BevCan Companies has received any written opinions or other written legal advice that third parties are infringing any Intellectual Property Rights owned, licensed or used by it.
- Except as set forth in Annex 29 hereto, none of the BevCan Companies has received any opinions or other written legal advice relating to the validity or enforceability of any Intellectual Property Rights owned or used by any of the BevCan Companies.
- (c) Except as set forth in Annex 30 hereto, there are no outstanding written claims by any of the licensees of the BevCan Companies, including but not limited to Toyo Seikan Kaisha Ltd., Lotte, CIA Metalic Nordeste and Pacific Can Enterprises.
- Except as set forth in Annex 30 hereto, there are no agreements presently in force relating to the development of technology for use by or for any of the BevCan Companies.
- (d) The BevCan Companies are the owners of or have the right to use the Intellectual Property Rights set forth in Annex 31 hereto and such rights are not encumbered or subject to cancellation or total or partial nullification or any material rights of prior users. All necessary steps have been taken for the maintenance of such rights.
13. Except as set forth in Annex 32 hereto, there is no material action, suit, proceeding or, to the knowledge of the Seller, investigation by or before any Governmental Authority (as defined in Part X Section 1 below) or arbitral body pending or, to the knowledge of the Seller, threatened against or involving any of the BevCan Companies, including, without limitation, any action, suit, proceeding or, to the knowledge of the Seller, investigation which challenges the legality, validity or enforceability of the Squeeze-Out, the Matrix Agreement, this Agreement or the transactions contemplated hereby. None of the BevCan Companies is subject to any judgment, order or decree rendered in any lawsuit or proceeding that has not been complied with in full or that continues to impose any material obligations on such BevCan Company.
14. Except for the contracts and agreements listed in Annex 33 hereto, none of the BevCan Companies is a party to any of the following agreements as of the date hereof:
- (a) any supply agreement involving an aggregate outstanding annual expenditure by the BevCan Companies of more than (Euro) 1,000,000 (in words: Euro one million) (or the equivalent thereof in any other currency) and having an outstanding fixed term of more than six months;
 - (b) any customer agreement involving aggregate annual revenues of the BevCan Companies of more than (Euro) 2,000,000 (in words: Euro two million) (or the equivalent thereof in any other currency) and having an outstanding fixed

term of more than six months;

- (c) any distributorship or agency agreement (including, without limitation, any agreements or contracts with commercial agents (*Handelsvertreter*) or authorized dealers (*Vertragshandler*)) under which the BevCan Companies have made an annual turnover in 2001 in excess of (Euro) 2,000,000 (in words: Euro two million) (or the equivalent thereof in any other currency);
- (d) any lease agreements, either as lessee or lessor, involving an annual lease of more than (Euro) 200,000 (in words: Euro two hundred thousand) (or the equivalent thereof in any other currency);
- (e) any license agreements, either as licensee or licensor, involving an annual license fee of more than (Euro) 90,000 (in words: Euro ninety thousand) (or the equivalent thereof in any other currency) and having an outstanding fixed term of more than six months;
- (f) any guarantees (*Garantien*), suretyships (*Burgschaften*), indemnification agreements, mortgages, pledges, hypothecations, deeds of trust, security agreements, equipment financing obligations or guarantees, or other sources of contingent liability, each in respect of any indebtedness to any other Person (other than the BevCan Companies), or letters of intent or commitment letters with respect to same, each in excess of (Euro) 100,000 (in words: Euro one hundred thousand) (or the equivalent thereof in any other currency);
- (g) any agreement with the Seller or any of its Affiliates (other than the BevCan Companies) as well as the Matrix Agreement and any ancillary agreements relating thereto;
- (h) any employment or other agreements (including, without limitation, non-competition, confidentiality, loans to employees, directors or officers, severance or indemnification agreements) with any employee of any of the BevCan Companies or any current or former officers or directors whose annual fixed compensation exceeds or exceeded (Euro) 150,000 (in words: Euro one hundred fifty thousand) (or the equivalent thereof in any other currency);
- (i) any consulting agreements involving payments in excess of (Euro) 100,000 (in words: Euro one hundred thousand) (or equivalent thereof in any other currency) per annum;
- (j) other than those not in effect as of the Closing Date and those entered into with any BevCan Company as the counterparty, any instruments or agreements for borrowed money (including, without limitation, any indentures, loan agreements or purchase money obligations incurred in connection with the acquisition of property) in excess of (Euro) 250,000 (in words: Euro two hundred fifty thousand) (or the equivalent thereof in any other currency) per annum;
- (k) any agreements for acquisitions or dispositions (by merger, purchase or sale of assets or stock or otherwise) of any business organizations or divisions thereof or any plants, as to which any of the BevCan Companies has continuing obligations or rights;
- (l) any joint venture or partnership agreements or any agreements providing for collaborations involving the sharing of profits or proprietary information regarding technology used in the BevCan Business;
- (m) other than any agreement of the type referred to in lit. (e) above, any agreement, either as licensee or licensor, granting a right to use computer software or relating to the management of the BevCan Business as it relates to information technology, each involving an annual license fee of more than (Euro) 100,000 (in words: Euro one hundred thousand) (or the equivalent thereof in any other currency);
- (n) any affiliation agreements (*Unternehmensverträge*) in the sense of Section 291 et seq. of the German Stock Corporation Act (*Aktiengesetz, AktG*);
- (o) any agreement providing for payments by or to any of the BevCan Companies in excess of (Euro) 500,000 (in words: Euro five hundred thousand) (or the equivalent thereof in any other currency) per annum including a change-in-control provision or that would otherwise entitle the other party to terminate or change the agreement as a result of the transactions contemplated in this Agreement or their consummation;
- (p) other than any agreement of the type referred to in lit. (a), (b), (c), (e), (h), (k) or (l) above, any agreement containing covenants purporting to limit the freedom of any BevCan Company to compete with any Person or in any geographic area; or
- (q) other than any agreement of the type referred to in lit. (a) through (p) above, any other agreement providing for payments by or to the BevCan Companies in excess of (Euro) 250,000 (in words: Euro two hundred fifty thousand) (or the equivalent thereof in any other currency) per annum.

Except as set forth in Annex 33 hereto, each of the agreements and contracts listed in Annex 33 hereto ("Principal Agreements") (together with all amendments thereto) has been made available to the Purchaser. Each Principal Agreement is a legal, valid and binding obligation of the parties thereto enforceable against such parties in accordance with its terms. None of the BevCan Companies or, to the knowledge of the Seller, any other party is in material default, violation or breach under any Principal Agreement, and, to the knowledge of the Seller, no event has occurred and is continuing that constitutes, or with notice or the passage of time would constitute, a material default, violation or breach under any principal Agreement. Except as set forth in [Annex 34](#) hereto, neither the execution, delivery or performance of this Agreement by the Seller (other than the execution, delivery or performance of the Direct Purchases) will conflict with, or result in a violation or breach of, or constitute a default under, or result in the creation of any Encumbrance upon any of the assets of any of the BevCan Companies under, any Principal Agreement, except for such violations, breaches or defaults which would not, individually or in the aggregate, materially affect or prevent or delay the consummation of the transactions contemplated by this Agreement.

15. The BevCan Companies do not employ more than 2,700 employees on a regular basis. In connection with the Matrix Transaction, no employees employed by the PET/White Cap Subsidiaries have been transferred to any of the BevCan Companies, except as set forth in [Annex 35](#) hereto. Except as set forth in Annex 35 hereto, none of the employees transferred from the BevCan Companies (or any of their Affiliates as of the date of the execution of the Matrix Agreement) to the PET/White Cap Subsidiaries (or any of their Affiliates or Amcor Limited) in connection with the Matrix Transaction have objected to the transfer of the employment of such employees.

[Annex 36](#) hereto contains a true and complete list of all material shop agreements (*Betriebsvereinbarungen*) and collective bargaining agreements (*Tarifverträge*) applicable to any of the BevCan Companies as well as all benefit, bonus, retention bonus, pension, compensation profit sharing or other employee benefit plans applicable for members of the management board, managing directors, officers or employees of the BevCan Companies.

Other than in the ordinary course of business consistent with past practice, there are no outstanding express contractual obligations to increase the remuneration, or to change any other terms of employment, of any employee of the BevCan

Companies unless such increase or change is required under (i) the shop agreements or collective bargaining agreements listed in Annex 37 hereto or (ii) individual agreements existing as of the date hereof. All payments due from any of the BevCan Companies in respect of any and all social security contributions, payments or similar fees, duties or premiums are paid up-to-date.

Annex 38 hereto contains a true and complete list of all individual pension commitments and pension schemes (*betriebliche Altersversorgung*) with members of the management board, managing directors, officers or employees of any of the BevCan Companies.

None of the BevCan Companies has made any loans to any employees or former employees of the Excluded Business or other non-BevCan Businesses with amounts outstanding exceeding (Euro) 10,000 in the individual case.

Annex 39 contains a true and complete list of any works councils, including any central works council (*Gesamtbetriebsrat*), central works council of affiliated companies (*Konzernbetriebsrat*), European works council or similar organization or committee of the employees, established at the BevCan Companies with the name of its members. Except as set forth in Annex 40 hereto, no strikes or work stoppages (*Arbeitsniederlegungen*) have occurred at any of the BevCan Companies during the last five years and no strikes or work stoppages (*Arbeitsniederlegungen*) are pending or, to the knowledge of the Seller, threatened.

The Seller shall deliver to the Purchaser, within ten Business Days following the date hereof, a current list of all employees of the BevCan Companies.

16. Annex 41 hereto contains a true and complete list of all material liability insurance policies (including general liability, property, workers' compensation, directors and officers liability and other similar insurance) under which any of the BevCan Companies is an insured, a named insured or otherwise the principal beneficiary of coverage ("Insurance Policies"). All such Insurance Policies are in full force and effect and all premiums due have been paid. Each of the BevCan Companies has complied in all material respects with the provisions of such Insurance Policies applicable to them. Except as set forth in Annex 42 hereto, there are no pending material claims under any of the Insurance Policies. None of the BevCan Companies has failed to give, in a timely manner, any notice required under any of the Insurance Policies to preserve its material rights thereunder.

Annex 43 hereto contains a true and complete list and description of any material insurance policy either (i) maintained since January 1, 2001 by any of the BevCan Companies or (ii) currently maintained by any of the BevCan Companies for the benefit of a third party, in each case against which claims may be made by any of the Excluded Businesses or any other non-BevCan Businesses (such descriptions, including, without limitation, the name of the principal insured, the type, scope and the amount of coverage of such insurance policy and the premium charged for such policy).

17. The BevCan Companies hold all material public approvals, permits, licenses and other authorizations of any Governmental Authorities required for the conduct of the BevCan Business ("Licenses"). All the Licenses are in full force and effect, and to the knowledge of the Seller, there are no proceedings threatened to revoke any of the Licenses, except as set forth in Annex 44 hereto. None of the Licenses will be impaired by the consummation of the transactions contemplated by this Agreement other than Licenses the impairment of which would not materially interfere with the operation of the BevCan Business taken as a whole.

Each of the BevCan Companies conduct the BevCan Business in all material respects in compliance with all applicable Laws and Licenses, except as set forth in Annex 45 hereto. Except as set forth in Annex 45 hereto, none of the BevCan Companies has received any written notification by any Governmental Authority of any asserted failure by the operations of any of the BevCan Companies to comply with any applicable Laws. Except as set forth in Annex 45 hereto, neither the execution, delivery or performance of this Agreement by the Seller nor the consummation of the transactions contemplated hereby will in a material way conflict with or result in a violation or breach of any applicable Laws.

18. Subject to the terms of Section 26 below, the Seller does not give any representation and warranty on the environmental status of the BevCan Companies other than the following:

(a) Except as set forth in Annex 46:

- (i) The BevCan Companies are, and have been, in compliance, in all material respects, with all applicable Environmental Laws (as defined in Part X Section 1 below) (including, without limitation, possessing all Licenses required under applicable Environmental Laws and complying, in all material respects, with the terms and conditions thereof). None of the BevCan Companies has received any written communication, whether from a Governmental Authority, citizens group, employee or otherwise, alleging that it is not in such compliance and, to the knowledge of the Seller, there are no circumstances or conditions that would interfere with such compliance in the future.
 - (ii) There is no Environmental Claim (as defined in Part X Section 1 below) pending or, to the knowledge of the Seller, threatened against the BevCan Companies or against any Person whose liability for any Environmental Claim any of the BevCan Companies has retained or assumed either contractually or by operation of law.
 - (iii) There are, to the knowledge of the Seller, no past or present actions, activities, circumstances, conditions, events or incidents, including, without limitation, the Release (as defined in Part X Section 1 below) or presence of any Hazardous Substances (as defined in Part X Section 1 below) that could form the basis of any Environmental Claim against any of the BevCan Companies, or against any Person whose liability for any Environmental Claim any of the BevCan Companies has retained or assumed either contractually or by operation of law.
 - (iv) No Remediation Measures (as defined in Part X Section 1 below) are being conducted or planned at any of the Real Property, any other property leased or operated by any of the BevCan Companies on the date hereof ("BevCan Sites") or, to the knowledge of the Seller, at any property formerly owned, leased or operated by any of the BevCan Companies.
 - (v) None of the BevCan Companies has any obligations or liabilities under any Environmental Laws or pursuant to any Environmental Claims, arising out of or relating to the Excluded Businesses or any other non-BevCan Businesses.
- (b) The Seller has delivered or otherwise made available for inspection to the Purchaser true, complete and correct copies and results of any external reports, studies, analyses, tests or monitoring possessed or initiated by the Seller, the Seller's Guarantor, or any of the BevCan Companies in the last five years prior to the date hereof pertaining to Hazardous Substances in, on, beneath or adjacent to any property currently or formerly owned, leased or operated by any of the BevCan Companies, or regarding the BevCan Companies' compliance with applicable Environmental Laws.

19. Annex 47 hereto sets forth the names of the 10 biggest customers of the BevCan Companies, taken as a whole, according to the amount of the annual revenues generated by such customers in 2001 and the names of the 10 biggest suppliers of the BevCan Companies, taken as a whole, according to the annual volumes purchased from such suppliers in 2001.
20. Except as set forth in Annex 48 hereto, since January 1, 2002, none of the BevCan Companies has received from the Seller or any of its Affiliates (other than the BevCan Companies) any goods or services at terms and conditions which are significantly more favorable than terms and conditions which could be obtained from independent third parties in arm's length transactions.
21. Annex 49 hereto includes a true and complete list of any current investment grants, other grants or subsidies ("Grants") made by any Person to any of the BevCan Companies, exceeding (Euro) 50,000 (in words: Euro fifty thousand) (or the equivalent thereof in any other currency). Except as set forth in Annex 50 hereto, none of the BevCan Companies is liable to repay any of the Grants due to, or in view of, the execution and consummation of this Agreement.
22. All open derivative and hedging positions taken by any of the BevCan Companies are set forth in Annex 51 hereto.
23. Any expenses incurred to any attorneys, accountants, consultants, actuaries, investment banks, or other representatives of any of the BevCan Companies in connection with the transactions contemplated by this Agreement or the Matrix Agreement (as well as the costs of the Squeeze-Out and any change of control costs arising from OTIP, but other than the Direct Purchases) will be fully satisfied prior to the Closing Date (it being agreed and understood that any expenses related to the Carve-Out Financial Statements and the Reconciliation shall be for the account of the Purchaser pursuant to Part II Section 15 above).
24. Except as set forth in Annex 52 hereto, none of the transactions contemplated by this Agreement (other than the Direct Purchases) requires the consent of the works council or any other organization or committee representing the employees of any of the BevCan Companies (other than supervisory board approvals, if any).
25. Except as set forth in Annex 53 hereto, the BevCan Companies have not acquired, or disposed of, in the five years prior to the date hereof, any business organizations or divisions thereof or any plants involving a purchase price consideration of more than (Euro) 2,000,000 (in words: Euro two million) and, to the knowledge of the Seller, the BevCan Companies are not subject to any Liabilities not related to, or resulting from, the BevCan Business.
26. The representations and warranties set forth in Part V Sections 10, 11 (except for the representations and warranties referring to Annex 26), 12 (except for the representations and warranties referring to Annex 31), 15 (except for the representations and warranties referring to Annexes 36, 37, 38, 39), 16 (except for the representations and warranties referring to Annexes 41, 43), 17, 18, 20, 21, 23, 24, 25 above, which are given only as of the date hereof, shall be repeated by the Seller ("Repeated Warranties") on and as of the Closing Date based on, and subject to, the following:
 - (a) The Seller shall be entitled to up-date all Annexes to this Agreement relating to the Repeated Warranties for the purposes of listing matters occurring subsequent to the date hereof ("Disclosure Update") and shall deliver to the Purchaser the Disclosure Update no later than three Business Days prior to the Closing Date. The parties to this Agreement undertake to notarize the Disclosure Update, if any, on or prior to the Closing Date as an amendment to this Agreement.
 - (b) In case any of the items reflected in the Disclosure Update would constitute a breach of any representation or warranty set forth in this Part V if not reflected in the Disclosure Update and having a material adverse effect on any of the BevCan Companies other than in connection with the contemplated deposit legislation (*Dosenpfand*) (each such item a "Material Update"), the Seller shall undertake to cure such item within 30 Business Days of providing such disclosure. To the extent the Seller has not cured such item prior the expiration of such 30 Business Day period, such item shall be covered by, and subject to, the remedies pursuant to Part VI below. Claims of the Purchaser based on items reflected in the Disclosure Update which do not qualify as a Material Update are hereby excluded.
 - (c) A claim based on a breach of Repeated Warranties as of the Closing Date shall exclude claims for a breach of representations and warranties arising out of the same matter as of the date hereof

VI. PERFORMANCE AND LIABILITY

1. The parties hereby expressly exclude any and all statutory warranty claims Pursuant to Sections 434 et seq. of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*) and agree that the representations and warranties made by the Seller in Part V above in particular do not qualify as guarantees (*Beschaffenheitsgarantien*) within the meaning of Sections 443, 444 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*) and that the consequences of any breach of the representations and warranties set forth in Part V above shall exclusively be governed by the terms and conditions of this Agreement.

Furthermore, the parties hereto confirm that the limitations to the representations and warranties as specified in this Part VI shall form an integral part of the representations and warranties and that the representations and warranties set forth in Part V above are only given subject to such provisions and limitations.
2. Except for claims (i) based on a breach of the representations and warranties set forth in Part V above and Part VII below, (ii) for specific performance (*Erfüllungsansprüche*), (iii) for breach of the covenants and agreements set forth in Part II above and Part VII below, (iv) based on fraud or willful misconduct and (v) for indemnification set forth in Part II Sections 6 and 8 above and Part VII Section 2 below, all other claims of the Purchaser with respect to the sale and transfer of the Company Shares and the BevCan Business - e.g. any right of contestation (*Anfechtung*), recession (*Rücktritt*), reduction of purchase price (*Minderung*), breach of contractual and pre-contractual duties (*positive Forderungsverletzung, culpa in contrahendo*), frustration of contract (*Störung der Geschäftsgrundlage*)-are hereby excluded. Sections 123 and 826 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*) and any other liability for intent, fraud or willful misconduct shall not be affected.
3. The period of limitation for all claims of the Purchaser based on a breach of the representations and warranties set forth in (i) Part V Sections 1 to 4 above shall run until the fifth anniversary of the Closing Date or (ii) Part V Section 18 above (and Part V Section 26 as it applies to such Section) shall run until the fifth anniversary of the Closing Date.

The period of limitation for all claims of the Purchaser based on a breach of other representations and warranties set forth under Part V above shall run until, and including the expiration of 18 months following the Closing Date.

The period of limitation for all claims under Part VII below shall run until the expiration of six months after the later of the final assessment or final resolution, as applicable, following the Tax audit, if any, or the date after which the respective Tax authorities can no longer assess Tax Liabilities for the respective period of the relevant Taxes payable by the relevant BevCan Company.

The period of limitation for all other claims under this Agreement shall be governed by applicable statutory law.

4. In case of a breach of any of the representations and warranties set forth in Part V above, the Seller may attempt to remedy the breach if and to the extent such breach is capable of being cured; provided, however, that the Seller must notify the Purchaser within 15 Business Days after the Seller has received a written notification as to the breach from the Purchaser, describing in reasonable detail the facts on which the alleged breach is based, if Seller intends to attempt to remedy the breach; provided further, however, that this clause shall not give the Seller an opportunity to remedy a breach of Part V Section 18 (or Part V Section 26 as it applies to such Section). If the Seller fails to remedy the breach within a reasonable period of time, such period not to exceed three months after the Seller has received a written notification as to the breach from the Purchaser, the Purchaser shall be entitled to claim from the Seller compensation in cash of any damages suffered by the Purchaser in case of a breach of Part V Sections 1 and 2, above and by the respective BevCan Company in case of a breach of Part V Sections 3 to 26 above as a result of the respective breach, it being understood that any damage to be compensated by the Seller shall be limited by the proportion of the direct or indirect shareholding in the respective BevCan Company sold and transferred to the Purchaser under this Agreement.

Any liability of the Seller or Purchaser for indirect, punitive or consequential damages, including, but not limited to any value reductions due to lost earnings, is hereby excluded. Notwithstanding the foregoing, however, if the Seller exercises its right to notify the Purchaser of its intent to attempt to remedy a breach and the Seller fails to fully remedy such breach (including, without limitation, remedying any damages which occur while the Seller attempts to remedy such breach), the Seller shall be liable for any and all damages resulting from actions or omissions taken by the Seller to remedy such breach, including, without limitation, any indirect or consequential damages. The legal principles as to the calculation of damages, mitigation of damages and off-setting of losses by advantages due to the damaging event (*Schadensberechnung, Schadensminderung, Vorteilsausgleichung*) pursuant to Sections 249 et seq. of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*) shall apply to all claims of the Purchaser based on a breach of any of the representations and warranties set forth in Part V above.

5. Any liability of the Seller based on a breach of any of the representations and warranties set forth in Part V above shall be excluded to the extent that claims of the Purchaser or the underlying circumstances, respectively, are (i) covered by payments of insurance companies (but including in the amount indemnified the net present value (calculated using a discount rate of 7% per annum) of any increase in present or future premiums (limited to a period of up to five years) for the respective line of insurance concerned, which are proved by the Purchaser to be directly and specifically caused by the payment of the respective insurer) or of other third parties; provided, however, that any costs incurred by the Purchaser in pursuing such payments shall be included in the amounts indemnified, (ii) the subject matter of any indemnification undertaking under this Agreement, or (iii) specifically reflected or reserved for in the Schmalbach Pro-Forma Financial Statements for litigation (up to (Euro) 1,300,000) and environment (up to (Euro) 700,000), or (iv) already taken into account in the determination of any of the adjustments to the Purchase Price pursuant to Part III Sections 2, 3, 4 and 6 above.

Any liability of the Seller based on the breach of any of the Representations and Warranties set forth in Part V above shall bear default interest at a rate of 9% per annum.

Any payments actually made by the Seller in order to discharge a liability which is or becomes excluded under this Section 5 shall be refunded by the Purchaser to the Seller immediately upon the occurrence of the event resulting to such exclusion of liability.

6. In case of a breach of the representations and warranties set forth in Part V above which relates to court judgments, public orders or third party claims asserted against any of the BevCan Companies, the liability of the Seller shall be reduced if and to the extent the noncompliance by the Purchaser or the BevCan Companies with the following obligations prejudices or otherwise adversely affects the legal position of the Seller: (i) to inform the Seller without undue delay about any claim or proceedings which may give rise to a warranty claim of the Purchaser and (ii) upon the Seller's acknowledgement of its obligations to indemnify the Purchaser, (x) not to make any binding declarations to any third party regarding such claim or proceeding without the prior written instruction of the Seller and (y) to take such actions as the Seller may instruct, at the Seller's expense, to avoid, defend, dispute or settle such claim (other than making an admission of any violation of Laws or agreeing to court injunctions that would materially adversely affect the business operations of the BevCan Companies). The Purchaser shall furthermore procure that the Seller and its employees, professional advisors and other representatives shall, upon reasonable request, be granted, to the extent legally possible, full access during normal business hours to all relevant books and records and personnel of the BevCan Companies to the extent necessary to avoid, defend, dispute or settle such claim or proceedings.

7. In addition to any other provision set forth in this Part VI, claims of the Purchaser based on a breach of the representations and warranties set forth in Part V Section 18 (or Part V Section 26 as it applies to such Section) above ("Environmental Warranties") shall be specifically governed by the following provisions:

(a) The remedies of the Purchaser for a breach of any of the Environmental Warranties shall be limited to the compensation of Remediation Costs (as defined in Part X Section 1 below) and Liabilities relating to Third Party Environmental Claims (as defined in Part X Section 1 below) (together "Environmental Liabilities").

(b) Any Environmental Liability of the Seller under this Agreement is excluded if and to the extent:

(i) The Environmental Liability results from any change in any applicable Laws or regulations after the Closing Date, or from any applicable Laws or regulations which come into force after the Closing Date;

(ii) The Environmental Liability results from a change of use of any BevCan Site, or parts thereof, from industrial to non-industrial use following the Closing Date; or

(iii) The Environmental Liability results from the conduct or implementation of environmental investigations (including, but not limited to, soil drilling) by the Purchaser or any of the BevCan Companies (other than in compliance with lit. (c) (i) (aa) below). For the avoidance of doubt this shall not prevent the Purchaser or the BevCan Companies from conducting or implementing environmental investigations not complying with lit. (c) (i) (aa) below.

(c) The following procedural rules shall apply:

(i) (aa) The Purchaser undertakes, and shall cause the BevCan Companies, not to conduct or implement, any environmental investigations in respect of any of the BevCan Sites other than as previously agreed by the Seller. If the Seller and the Purchaser cannot reach an agreement with respect to such environmental investigations, the issue in dispute shall be submitted to an Environmental Expert, in no event later than four (4) weeks after the submission of the Purchaser's written request describing in reasonable detail the contemplated environmental investigation. The Environmental Expert shall determine whether or not the environmental investigation shall be conducted or implemented based on, and subject to, the prevailing standards of the BevCan industry and the past practice of the BevCan Companies relating to such environmental

investigations.

- (bb) If an Environmental Liability relates to the Release of Hazardous Substances on any BevCan Site ("Environmental Condition"), then the Purchaser shall notify the Seller under this Section in writing as soon as practicable in order to have a consultation with the Seller on the matter. Subsequent to the consultation, and prior to the commencement of any Remediation Measures, the Purchaser shall submit a Cost and Measure Plan to the Seller for its approval to address the Environmental Condition. However, if an Environmental Condition is constituting an imminent danger (*Gefahr in Verzug*), the Purchaser or a BevCan Company may implement the Remediation Measures prior to the submission of a Cost and Measures Plan or consultation with the Seller.
- (cc) If the Seller has objections with respect to the Cost and Measure Plan submitted by the Purchaser or a BevCan Company pursuant to lit. (bb) above, or with respect to Remediation Measures conducted by the Purchaser or a BevCan Company prior to submission of a Cost and Measure Plan or consultation with the Seller, and the Seller and the Purchaser or a BevCan Company cannot reach an agreement with respect to such objections, but in no event later than four (4) weeks after the submission of a Cost and Measures Plan, the issue in dispute shall be submitted to an Environmental Expert.
- (dd) If a dispute is submitted to the Environmental Expert and the issue relates to the Purchaser's or a BevCan Company's proposed Cost and Measures Plan, the Environmental Expert shall determine: (i) if there is a legal requirement to perform Remediation Measures (including any necessary investigation), (ii) if there is an Environmental Condition which exists at concentrations above the measure thresholds (*Massnahmenwerte*) of the Federal Soil Protection Ordinance (*Bundesbodenschutzverordnung*) or corresponding thresholds of applicable other ordinances and lists or (iii) based on the facts and circumstances known at the time of dispute, there is sufficient cause to believe that Environmental Conditions exist, such that the implementation of Remediation Measures to protect the environment or public health is warranted, based on, and subject to, prevailing standards in the BevCan industry and the past practice of the BevCan Companies, including, without limitation, the existence or potential existence of Hazardous Substances above screening or remediation standards that are typically used in the relevant jurisdiction. If the Environmental Expert determines that implementation of Remediation Measures is warranted based on a positive finding under one of the standards set forth above, the Environmental Expert shall resolve any remaining disputes with respect to the Cost and Measures Plan accordingly with a view to minimize any Environmental Costs.
- (ee) If a dispute is submitted to the Environmental Expert and the issue relates to Purchaser's or a BevCan Company's performance of Remediation Measures prior to submission of a Cost and Measures Plan or consultation with the Seller, the Environmental Expert shall determine the existence of an imminent danger (*Gefahr in Verzug*) alleged by the Purchaser and whether the Purchaser's or a BevCan Company's determination to implement Remediation Measures was reasonably warranted, taking into consideration the standard for action set forth in lit. (bb).
- (ii) (aa) If an Environmental Liability relates to the non-compliance of any BevCan Company with applicable Environmental Laws prior to the Closing Date (other than as set forth in lit. (i) above) ("Environmental Non-compliance Condition"), the Purchaser shall notify the Seller under this Section in writing as soon as practicable in order to have a consultation with the Seller on the matter. Subsequent to the consultation, and prior to the commencement of any Remediation Measures, the Purchaser shall submit a Cost and Measure Plan to the Seller for its approval to address the Environmental Non-compliance Condition.
- (bb) If the Seller has objections with respect to the Cost and Measure Plan submitted by the Purchaser or a BevCan Company pursuant to lit. (aa) above, and the Seller and the Purchaser or a BevCan Company cannot reach an agreement with respect to such objections, but in no event later than four (4) weeks after the submission of a Cost and Measures Plan, the issue in dispute shall be submitted to an Environmental Expert.
- (cc) If a dispute is submitted to the Environmental Expert pursuant to lit. (bb) above, the Environmental Expert shall determine (i) if a BevCan Company was in violation of, or non-compliance with, an applicable Environmental Law prior to the Closing Date and (ii) if as a result of said violation or non-compliance, there is a need to perform the proposed Remediation Measure(s) or an alternative Remediation Measure. If the Environmental Expert determines that the implementation of the proposed Remediation Measure or an alternative Remediation Measure is warranted, the Environmental Expert shall resolve any remaining disputes with respect to the Cost and Measures Plan accordingly, with a view to minimize any Environmental Costs.
- (iii) If an Environmental Liability relates to a Third Party Environmental Claim, the provisions of Part VI, Section 6 shall apply, provided, that to the extent the Third Party Environmental Claim also relates to an Environmental Condition or an Environmental Non-compliance Condition, the provisions of lit. (i) and (ii) above shall also apply.
- (iv) If an Environmental Expert is appointed pursuant to the foregoing provisions, the following shall apply:
 - (aa) If reasonably possible, the same Environmental Expert appointed according to lit. (i) shall be appointed with regard to lit. (ii).
 - (bb) The costs of the Environmental Expert shall be borne by the Seller and the Purchaser in equal shares.
 - (cc) The Seller and the Purchaser shall ensure that the Environmental Expert shall be provided with all documents and information regarding the issue or issues to be decided by the Environmental Expert to the extent reasonably requested.
 - (dd) A representative of both the Seller and the Purchaser will be entitled to attend any inspections of the relevant BevCan Site by the Environmental Expert. The parties hereto undertake to ensure that the Environmental Expert immediately informs the respective other party of the date and duration of any inspections.
 - (ee) Before rendering a decision, the Environmental Expert shall give the Seller and the Purchaser an opportunity to present their views in writing or, if requested by either the Seller or the Purchaser, in a meeting, where both parties and the Environmental Expert are present. The

Environmental Expert shall render its decision without any delay. The decision shall be issued in writing and with reasons and a copy thereof shall be sent by the Environmental Expert to each of the Seller and the Purchaser.

(ff) The decision of the Environmental Expert shall be final and binding on the parties.

The parties' right pursuant to Section 319 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*) to challenge the Environmental Expert's decision for obvious inadequacy (*offensichtliche Unbilligkeit*) shall remain unaffected.

(v) The Seller and its personnel, agents, representatives, accountants and other professional advisors shall be given access at its own expense to the relevant BevCan Site and the books and records of the Purchaser and/or Entities relating to the respective asserted breach of the Environmental Warranties and related matters. The Seller shall promptly receive any cost estimates prepared in connection with the Environmental Liabilities being asserted. The Purchaser shall ensure that for as long as the Seller may be held liable under this Part VI copies of all documents relating to the BevCan Sites, which as of the Closing Date, are in the possession of the BevCan Companies will be kept available for inspection by the Seller at premises of the BevCan Companies upon the Seller's request.

(d) For the avoidance of doubt, any Liabilities relating to the violation of Environmental Laws which are not to be indemnified by the Seller pursuant to the foregoing provisions, shall not give rise to any other claims against the Seller based on whatever legal reason, except in the case of intent, fraud or willful misconduct. The parties agree that any claims pursuant to Section 24 (2) of the German Federal Soil Protection Act (*Bundesbodenschutzgesetz, BbodSchG*) and any similar statutory claims under the laws of other jurisdiction shall be excluded.

8. All claims for indemnification for a breach of any of the representations and warranties set forth in Part V above relating to environmental matters shall only be made for breaches of the provisions of Part V Section 18 (and Part V Section 26 as it applies to such Section).

9. (a) Claims of the Purchaser based on a breach of any of the representations and warranties set forth in Part V above (other than breaches of Part V Section 18 above (and Part V Section 26 as it applies to such Section)) can only be raised if and to the extent that (i) the amount for each unrelated individual claim exceeds (Euro) 37,500 (in words: Euro thirty seven thousand five hundred) (or the equivalent thereof in any other currency), and (ii) the aggregate amount of all unrelated individual claims exceeding (Euro) 37,500, exceeds (Euro) 2,500,000 (in words: Euro two million five hundred thousand) (or the equivalent thereof in any other currency), in which case the Purchaser shall only be entitled to claim the exceeding amount. Notwithstanding the foregoing, any breach of any of the representations and warranties set forth in Part V Sections 9 or 23 above shall not be subject to the monetary thresholds set forth in this Section 9.

(b) Claims in connection with Part V Section 18 (and Part V Section 26 as it applies to such Section) above shall be on a cumulative basis split as follows, in all cases subject to the limitation as set forth in (c) below: The first (Euro) 1,500,000 (in words: Euro one million five hundred thousand) (or the equivalent thereof in any other currency) shall be borne by the Seller; if the claim amounts in the aggregate exceed (Euro) 1,500,000 (in words: Euro one million five hundred thousand) (or the equivalent thereof in any other currency), but are not exceeding (Euro) 25,000,000 (in words: Euro twenty-five million) (or the equivalent thereof in any other currency), the Seller shall bear 80% of the indemnification amount; if the claim amounts in the aggregate exceed (Euro) 25,000,000 (in words: Euro twenty-five million) (or the equivalent thereof in any other currency), the Seller shall bear 75% of the indemnification amount.

(c) The maximum liability of the Seller for all claims in connection with Part V Section 18 (and Part V Section 26 as it applies to such Section) shall not exceed (Euro) 70,000,000 (in words: Euro seventy million) (or the equivalent thereof in any other currency).

10. The maximum liability of the Seller for all claims of the Purchaser under this Agreement raised prior to the expiration of 18 months following the Closing Date, shall not exceed (Euro) 250,000,000 (in words: Euro two hundred fifty million) (or the equivalent thereof in any other currency) and for all claims raised thereafter shall not exceed (Euro) 70,000,000 (in words: Euro seventy million) (or the equivalent thereof in any other currency). In no event shall the maximum liability of the Seller exceed (Euro) 250,000,000 (in words: Euro, two hundred fifty million) (or the equivalent thereof in any other currency) in respect of all claims raised by the Purchaser prior or subsequent to the expiration of 18 months following the Closing Date.

This Section 10 shall not apply to (i) the indemnifications set forth in Part II Sections 6 and 8 lit. (a) (i) and (iv) above, (ii) claims based on a breach of the representations in Part V Sections 1 to 4 above, and (iii) claims based on intent, fraud or willful misconduct.

11. To the extent representations and warranties refer to the knowledge of the Seller, only the knowledge of the persons set forth in Annex 54 hereto is deemed to be the knowledge of the Seller.

12. The Seller's Guarantor hereby assumes a joint and several liability for the performance of this Agreement by the Seller and for all claims of the Purchaser against the Seller of any type whatsoever pursuant to this Agreement.

13. The Purchaser's Guarantor hereby assumes a joint and several liability for the performance of this Agreement by the Purchaser and for all claims of the Seller against the Purchaser of any type whatsoever pursuant to this Agreement.

VII. TAXES

1. Based on, and subject to, the limitations set forth in this Part VII, the Seller hereby represents and warrants that, except as set forth in Annex 55 hereto, the Seller, the Seller's Guarantor and the BevCan Companies have duly filed by the due date all Taxes returns and other reports required under applicable Tax laws to be filed with the Tax authorities, paid all due Taxes and Tax pre-payments, retained all Taxes required to be retained and paid such Taxes by the due date to the respective recipient, paid all related delay charges and penalties, if any, and maintain no obligations or Liability to pay any Taxes relating to any periods prior to the date hereof or relating to Excluded Business or any other non-BevCan Businesses other than those Taxes accrued, reflected or reserved for in the Final Closing Financial Statements; for the avoidance of doubt, the amounts of any corporation Tax loss carry forward and/or state Tax loss carry forward and/or any trade Tax loss carry forward of the BevCan Companies are not represented by the Seller. The Seller further represents and warrants that, except as set forth in Annex 55 hereto, none of the BevCan Companies is party to any Tax sharing or similar agreements.

2. The Seller agrees to pay to the Purchaser an amount equal to all Liabilities of the BevCan Companies resulting from Tax Liabilities, accrued or contingent, relating to the period on or prior to the Closing Date including all Liabilities for

any Taxes the BevCan Companies may be liable for as a result of membership, participation or inclusion in any affiliated, consolidated, unitary, or similar filing group including but not limited to an Organschaft, fiscal unity, and tax grouping together with interest thereon at LIBOR plus 1% per annum as from the due date of the indemnification under this Section 2. In no event shall the Seller be responsible for any Tax Liabilities based on, or resulting from, the Direct Purchases. Any Liability to be compensated by the Seller shall be limited by the proportion of the direct or indirect shareholding in the respective BevCan Company concerned. If relating to periods after the Closing Date any of the BevCan Companies or any successor to all or part of their business(es) receives or could receive any benefits by repayment, set-off or reduction of Taxes which they would not have received but for circumstances giving rise to a claim for indemnification of Taxes, then the net present value of the corresponding benefit (calculated using an interest rate of seven percent (7%) per annum shall reduce the claim for compensation of any such Tax if and to the extent such benefit relates to timing differences such as lengthening of any amortization or depreciation period or higher depreciation allowances, or by using any Tax loss carry forward.

For purposes of this section, any required payment of a Liability from Seller to Purchaser will be reduced by the amount of any previous Tax prepayment or estimated Tax payment related thereto.

3. The Seller shall not be responsible for any Tax Liabilities or reduction of deferred Tax assets resulting from any restructurings or change in the accounting and taxation policies or practices of the BevCan Companies (including methods of submitting Tax returns) introduced after the Closing Date, unless such change is due to an amendment to or a change of the applicable Laws or because prior accounting policies or practices are determined not to be in accordance with applicable Laws. For the avoidance of doubt, the Seller does not make any representation or warranty as to the Purchaser's or the BevCan Companies' ability to realize deferred Tax assets.
4. Subject to the compliance with the obligations set forth in Section 6 below, the compensation claims set forth in Section 2 above shall be settled by the Seller at the Purchaser's request five Business Days before the subsequent Tax demands fall due.
5. The Purchaser undertakes to reimburse the Seller relating to the period on or prior to the Closing Date as follows:
 - (a) If subsequent Tax demands against any of the BevCan Companies are later no longer applicable as a result of final non-contestable rulings of Tax authorities or by reason of ultimate final court decisions in any appeals filed (up to and including any appeal to the highest level of court under applicable Laws), the Purchaser shall reimburse to the Seller the compensation payments received from the Seller with respect to such demands, together with any interest paid by the Tax authorities on the reimbursed amounts.
 - (b) If an unappealable assessment notice or a similar unappealable notice of a Tax authority for periods prior to Closing Date results in payments by any of the BevCan Companies for a particular Tax which are lower than the amounts paid by the respective BevCan Company, then the Purchaser shall reimburse to the Seller an amount equal to the difference less any amounts payable by the Purchaser with regard to the respective BevCan Company under lit. (a) above.
 - (c) However, the Purchaser's reimbursement obligation under this Section 5 with regard to compensation payments to the Seller for Taxes of any of the BevCan Companies shall be limited to the amount of the compensation payment caused by Tax demands and assessments from Tax authorities regarding the respective BevCan Company.
6. The Purchaser undertakes to procure that Tax matters of the BevCan Companies concerning the period prior to the Closing Date shall be handled by the BevCan Companies in agreement with the Seller, which agreement shall not be unreasonably withheld by the Seller, and at the Seller's cost and expense. The Seller shall in particular be notified fully and promptly concerning any Tax assessment or Tax audits or of any attempt of the Tax authorities to make any Tax charge or to disallow any Tax relief or allowance. The Seller shall be given an opportunity to comment on Tax audits which shall be managed, prepared and conducted by the respective BevCan Company and its internal or external advisors. Binding declarations to the Tax or other authorities which may have consequences for the Seller shall be made by the respective BevCan Company or the Purchaser only in agreement with the Seller, which agreement shall not be unreasonably withheld by the Seller. If any findings or assessments of the Tax authorities that relate to the period prior to the Closing Date give rise to any Tax indemnification claim, the Purchaser shall pursue, and the Seller may request the respective BevCan Company to pursue, any reasonable remedy and appeal in accordance with reasonable instructions by the Seller at the Seller's cost and expense.

The purchaser shall furthermore procure that the Seller and its employees, professional advisors and other representatives shall, upon request, be granted full access during normal business hours to all books and records and personnel of the BevCan Companies to the extent necessary or appropriate for the Seller's Tax purposes.
7. The Purchaser shall be entitled, in its sole discretion, to designate the entity to which each payment under this Part VII shall be made. Each payment under this Part VII shall be deemed to be an adjustment of the Purchase Price. To the extent that any such payment is taxable, it shall be fully grossed up to cover Taxes thereon, so that the Purchaser or its designee shall receive the full amount thereof, undiminished.
8. As used in this Part VII, "Tax" or "Taxes" shall mean any federal, state, local or foreign taxes including, without limitation, any net income, alternative or add-on minimum tax, gross income, gross receipts, excise, sales, use, ad valorem, franchise, capital, paid-up capital, profits, greenmail, license, withholding, payroll, environmental, windfall profits tax or other tax or any custom or duty, or any other charges, fees, levies, penalties or other assessments imposed by any taxing authority, including, in each case, any interest, penalties or additions thereto (except as caused by actions or omissions of the Purchaser or any of the BevCan Companies after the Closing Date). The terms "Tax" or "Taxes" as referred in this Part VII shall include, without limitation, taxes (*Steuern*) including tax advances and auxiliary obligations (*steuerliche Nebenleistungen*) as defined in Section 3 of the German Tax Act (*Abgabenordnung, AO*).
9. The Seller and the Purchaser shall each (i) provide the other with such assistance as may reasonably be requested by either of them in connection with the preparation and filing of any pre-Closing Tax elections or filings, as well as any post-Closing Tax return, audit or other examination by any Tax authority relating to liability for Taxes, (ii) retain and provide the other, at the other's expense, with any records or other information which may be relevant to such Tax election, filing, Tax return, audit or examination, proceeding or determination and (iii) provide the other, at the other's expense, with any requested information relating to final determination of any such audit or examination, proceeding or determination that affects any amount required to be shown on any Tax return or filing of the other for any period.
10. The Seller agrees to pay or cause to be paid all Taxes accruing with respect to the operations of, or imposed upon, the BevCan Companies for any Tax period ending on and including the Closing Date and all prior Tax years or periods and all Taxes accruing with respect to the operations of, or imposed upon, the Excluded Business and any other non-BevCan Businesses. The Purchaser agrees to pay or cause to be paid all Taxes that accrue with respect to the operations of, or are imposed upon, the BevCan Companies for all periods ending after the Closing Date. With respect to any Tax period commencing before the Closing Date and ending after the Closing Date ("Straddle Period"), the Seller shall pay or cause to be paid to the Purchaser all Taxes of the BevCan Companies attributable to the portion of the Straddle Period prior to and

including the Closing Date. For purposes of this Agreement, the portion of any Tax that is attributable to the portion of the Straddle Period prior to and including the Closing Date shall be (i) in the case of a Tax that is not based on any of net income, gross income or gross receipts (including, but not limited to, value added tax and other sales taxes), the total amount of such Tax for the period in question multiplied by a fraction, the numerator of which is the number of days in the Straddle Period prior to and including the Closing Date, and the denominator of which is the total number of days in such Straddle Period, and (ii) in case of a Tax that is based on any of net income, gross income or gross receipts, the Tax that would be due with respect to the portion of the Straddle Period prior to and including the Closing Date if such portion were a separate taxable period, except that exemptions, allowances, deductions or credits that are calculated on an annual basis (such as for example a deduction for depreciation) shall be apportioned on a per diem basis, with all such calculations being made consistent with past practices and conventions. Any Taxes, penalties or interest imposed upon, or attributable to the operations of the BevCan Companies that are payable as a result of an audit of any Tax Return shall be deemed to have accrued in the period to which such Taxes, penalties or interest are attributable, applying the principles set forth in the foregoing sentence. In no event, the Seller shall be obligated to pay an amount exceeding the actual Tax Liabilities of the BevCan Companies.

VIII. SECURITY AND NON-COMPETITION

1. The Seller and the Seller's Guarantor undertake for a period of five years from the Closing Date to keep strictly secret all matters, in particular all business and trade secrets of the BevCan Business, known to it and not to disclose such matters and secrets, directly or indirectly, to any third party, nor to cause such disclosure by third parties, nor to abet or justify such disclosure, nor to use such matters or secrets for itself, unless the disclosure to governmental authorities or any other third party is required by virtue of law.
2. The Seller and the Seller's Guarantor undertake for a period of two years from the Closing Date, without the prior written consent of the Purchaser, not to actively cause any employee, agent or advisor (excluding lawyers, investment bankers, certified public accountants and tax advisors) as of the date hereof or in the future employed or retained by any of the BevCan Companies, to work in any way whatsoever for the Seller or the Seller's Guarantor, for an enterprise in which it holds an interest or for a competitor or to terminate an existing relationship with any of the BevCan Companies.
3. The Seller and the Seller's Guarantor undertake for a period of two years from the Closing Date not to design, manufacture, market or sell in any part of Europe or Asia any products which are of the same kind as, or competitive with, products designed, manufactured, marketed or sold by the BevCan Companies in the BevCan Business in the past or at present or planned to be designed, manufactured, marketed or sold by the BevCan Companies, nor to assist third parties, directly or indirectly, in the design, manufacturing, marketing or sale of such products. The Seller and the Seller's Guarantor, however, shall be entitled to acquire and to hold an interest in companies which design, manufacture, market or sell such products, provided that such interest will be acquired and held by the Seller as financial investor for investment purposes only.

IX. CLOSING

1. The transfer of the Company Shares pursuant to Part I Section 1 above is subject to the satisfaction of the following conditions precedent (*aufschiebende Bedingungen*):
 - (a) completion of all merger control proceedings in Germany and Poland without interdiction of any transaction contemplated by this Agreement, be it by lapse of time or written confirmation to that effect;
 - (b) [intentionally omitted];
 - (c) completion of the Asset Transfer as set forth in Part II Section 6 lit. (i) above;
 - (d) completion of the Squeeze-Out as set forth in Part II Section 9 above;
 - (e) completion of the Conversion as set forth in Part II Section 10 above by registration of the conversion resolution with the competent commercial register;
 - (f) completion of the Company Distributions as set forth in Part II Section 12 above and receipt of all distributed amounts by the Seller;
 - (g) receipt of the Estimated Purchase Price by the Seller as set forth in Part III Section 7 lit. (a) above; and
 - (h) if required under the Company's articles of association, the shareholders' meeting of the Company and the Company have consented to the sale and transfer of the Company Shares.
2. In addition to the conditions set forth in Section 1 above, the obligation of the Purchaser to acquire the Company Shares is subject to the satisfaction or waiver by the Purchaser of the following conditions on or before the Closing Date:
 - (a) The conditions to funding set forth in the financing commitment letters, executed copies of which are attached as Annex 56 hereto, obtained to enable the Purchaser's Guarantor and the Purchaser to complete the transactions contemplated by this Agreement, shall have been satisfied.
 - (b) Since June 30, 2002, no Material Adverse Change shall have occurred; for the purposes of this Agreement, "Material Adverse Change" shall mean any changes, effects, events, occurrences or states of facts that, individually or in the aggregate, are, or are reasonably likely to be (provided that the change, effect, event, occurrence or state of facts must have already occurred on or prior to the Closing Date) materially adverse to the business, properties, assets, Liabilities (contingent or otherwise), financial condition or results of operations of the BevCan Companies, taken as a whole, except for changes, effects, events, occurrences or states of facts generally affecting the industry in which the BevCan Companies operate, including but not limited to the contemplated deposit legislation (*Dosenpfand*).
 - (c) There shall be no outstanding Indebtedness of the BevCan Companies other than an account receivable securitization program with a maximum Euro equivalent size of (Euro) 75,000,000 (in words: Euro seventy-five million) and environmental loans of approximately (Euro) 20,000,000 (in words: Euro twenty million) and the Indebtedness set forth in the third sentence of Part 0 Section 11 above and such other Indebtedness as the Purchaser shall have agreed to in writing, not to be unreasonably withheld; and the Purchaser shall have received upon its request resignations from all members (other than the employee representatives) of the supervisory board of Schmalbach effective as of the Closing.
 - (d) The Purchaser shall have received properly executed copies of the letters, in substantially the forms attached hereto as Annex 57.

3. The last calendar day of the month in which the last of the conditions precedent set forth in Section 1 lit. (a), (c), (d), (e), (f) and (h) and Section 2 above is satisfied or, if applicable, waived, or any other date the parties hereto mutually agree shall be defined as "Closing Date" for the purpose of this Agreement.
4. If the satisfaction of the conditions set forth in this Part IX should not have occurred on or prior to January 31, 2003 at the latest, any party hereto shall be entitled to terminate this Agreement - including all Annexes hereto - without (except as set forth in Part X below) the other party hereto being entitled to any claims against the terminating party, provided, however, that in case (i) the Squeeze-Out should not be registered by October 15, 2002 or (ii) the proceedings set forth in Section 1 lit. (a) above should not be completed on or prior to January 15, 2003, the parties hereto shall be entitled to terminate this Agreement only if the Closing Date should not have occurred prior to March 31, 2003.

In the event of a termination of this Agreement - including all Annexes thereto - this Agreement shall cease to exist except for the rights and obligations under Part X below and Annex 51 hereto which shall survive such termination.

**X.
MISCELLANEOUS**

1. As used in this Agreement, the following terms shall have the following meanings:
- (a) "ABS Liabilities" means the sum of (i) the amount of any "Liabilities to Bank ABS (AG account no 250203 CCoA 3.223.000.000) incurred under the Schmalbach ABS program as reflected in the Final Closing Financial Statements, plus (ii) the excess of (A) the amount any "ABS Receivables," account code 18 01 03, (net of reserves held aside by the bank, account code 18 31 03) arising under the Matrix ABS program as reflected in the Final Closing Financial Statements over (B) (Euro) 28,500,000 (in words: Euro twenty-eight million fivehundred thousand). (For the avoidance of doubt, the amount referred to in lit. (i) represents cash received from customers and held on trust for the banks to which the respective receivables have been sold.)
 - (b) "Affiliate" has the meaning of *verbundenes Unternehmen* as defined in Sections 15 et seq. of the German Stock Corporation Act (*Aktiengesetz; AktG*).
 - (c) "Cost and Measure Plan" means a plan for the implementation of any Remediation Measures and the Remediation Costs incurred in connection therewith (taking into due consideration the time value of money as well as the interests of the BevCan Companies in minimizing any disruptions of their ongoing business operations) as submitted by the Purchaser to the Seller before the commencement of any Remediation Measures for approval.
 - (d) "Encumbrances" means any security interest, pledge, mortgage, deed of trust, lien, charge (whether fixed or floating), encumbrance, option, right of first refusal or restriction of any kind, including, without limitation, any restriction on the use, voting, transfer, title, receipt of income or other exercise of any attributes of ownership.
 - (e) "Environmental Claim" means any claim, action, cause of action, investigation or written notice by any Person or authority alleging potential liability arising out of, based on or resulting from (i) the presence, or Release of any Hazardous Substances at any location, whether or not owned or operated by the Company, or (ii) circumstances forming the basis of any violation, or alleged violation, of any Environmental Laws.
 - (f) "Environmental Expert" means an expert appointed by the Purchaser from any of the expert firms listed in Annex 58. The Seller shall be entitled to once reject the Purchaser's choice of expert, provided that a subsequent alternative choice of the Purchaser shall be binding for the parties hereto.
 - (g) "Environmental Laws" means all Laws, regulations, rules and ordinances applicable to the BevCan Companies relating to pollution or protection of the environment, including, without limitation, Laws relating to noise and vibration, Releases or threatened Releases of Hazardous Substances into the indoor or outdoor environment (including, without limitation, ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport or handling of Hazardous Substances and all laws and regulations with regard to record keeping, notification, disclosure and reporting requirements respecting Hazardous Substances.
 - (h) "US GAAP" means United States generally accepted accounting principles and practices in effect from time to time consistently throughout the periods involved.
 - (i) "Governmental Authority" means any court, legislative, executive or regulatory authority or agency.
 - (j) "Hazardous Substances" means (i) any petroleum or petroleum products, chlorinated solvents, radioactive materials, asbestos in any form, urea formaldehyde foam insulation, and transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls (PCBs) and radon gas; and (ii) any chemicals, materials or substances that are now or ever have been defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or words of similar import, under any Environmental Laws; and (iii) any other chemical, material, substance or waste, exposure to which is now or ever has been prohibited, limited or regulated by any Governmental Authority.
 - (k) "Indebtedness" means, with respect to any Person, all interest bearing debt obligations (whether for principal, interest, premium, fees or otherwise and whether classified as current or long-term) for or arising under (a) all obligations of such Person, other than contingent obligations, for borrowed money, (b) indebtedness incurred to finance the purchase of assets and secured by a lien on such assets, (c) the face amount of all letters of credit issued for the account of such Person and, without duplication, all drafts drawn thereunder, (d) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, and (e) all obligations of such Person as Lessee under leases that have been or should be, in accordance with IAS, recorded as capital leases.
 - (l) "Laws" means any order, writ, judgment, injunction, decree, law, statute, rule or regulation or other similar authoritative matter.
 - (m) "Liabilities" means any and all debts, expenses, liabilities, damages, fines, costs, royalties, proceedings, deficiencies or obligations of any nature (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, due or to become due, and whether or not resulting from third-party claims) and any out-of-pocket costs and expenses (including reasonable attorneys, accountants or other fees) including any liability for Taxes, but for the avoidance of doubt excluding any deferred Taxes.
 - (n) "OTIP" means the Ownership Transition Incentive Plan sponsored by Schmalbach and commenced January 1, 2001.
 - (o) "Pension Liabilities" means all Liabilities under pension commitments and pension schemes as of the Closing Date as reflected on the books and records of the BevCan Companies according to IAS or, in respect of Liabilities

under the UK pension plans, the ABO (accumulated benefit obligation) methodology, including, without limitation, any such Liabilities that arise out of or relate to the Excluded Businesses.

- (p) "Permitted Encumbrances" means (a) liens for Taxes, assessments and governmental charges or levies not yet due and payable; (b) materialmen's, mechanics', carriers', workmen's and repairmen's liens and other similar liens arising in the ordinary course of business or under statutory law that are not, individually or in the aggregate, material to the BevCan Companies; (c) with respect to real property, Encumbrances that do not individually or in the aggregate, materially adversely affect the value of such real property or the use of such real property; and (d) securing indebtedness of any of the BevCan Companies reflected in the Schmalbach Pro-Forma Financial Statements.
- (q) "Person" means any corporation, individual, joint stock company, joint venture, partnership, unincorporated association, governmental regulatory entity, country, state or political subdivision thereof, trust or other entity.
- (r) "Release" means any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, dispersal, leaching or migration into the indoor or outdoor environment (including, without limitation, ambient air, surface water, groundwater and surface or subsurface strata) or into or out of any property, including the movement of Hazardous Substances through or in the air, soil, surface water, groundwater or property.
- (s) "Remediation Costs" (*Gefahrenabwehrkosten*) are (i) the costs and expenses actually incurred in connection with, directly caused by and reasonably necessary for the execution of Remediation Measures and (ii) any damages resulting from a partial or complete cessation of operations resulting from a breach of the Environmental Warranties.
- (t) "Remediation Measures" (*Gefahrenabwehrmassnahmen*) are measures which (i) address a Release of Hazardous Substances into the environment including, without limitation, the necessary investigatory, preparatory, consulting, project management, legal, engineering and monitoring services and the disposal of waste relating thereto or (ii) address any other noncompliance with applicable Environmental Laws (including, without limitation, installation of pollution control equipment required by such applicable Environmental Laws or obtaining a License required by applicable Environmental Laws), including, without limitation, any necessary preparatory, consulting, project management, legal, and engineering services relating to such measures.
- (u) "Third Party Environmental Claims" means any liability for statutory claims and tort claims of any third parties or any Governmental Authority (including, without limitation, fines or other monetary penalties) asserted against any BevCan Company or against any Person whose liability for such claims has been retained or assumed either contractually or by operation of law by any BevCan Company, relating to (i) a violation or alleged violation of applicable Environmental Laws prior to the Closing Date, (ii) the Release of Hazardous Substances into the environment at any location (whether or not owned, leased or operated by any BevCan Company) or (iii) the exposure of any Person to Hazardous Substances, as well as the reasonable costs and expenses relating to claims under (i), (ii) and (iii).
- (v) "UK Pension Assets" means those assets as of the Closing Date serving to fund the Pension Liabilities of any of the BevCan Companies in the United Kingdom.
2. The fees for the notarization of this Agreement as well as fees charged by competent antitrust or other authorities or courts resulting from the merger control and other regulatory proceedings pursuant to Part II Section 2 above shall be split in half between the Seller and the Purchaser. Any sales and transfer taxes, if any, connected with the execution and the consummation of this Agreement shall be borne by the Purchaser. The Seller shall reimburse the Purchaser as from December 18, 2002 for the commitment fee charged by the Purchaser's financing sources (Deutsche Bank Securities Inc. and others) under Section 4. of a fee letter, dated August 28, 2002. Apart therefrom, each party hereto shall bear its own costs and taxes and the costs of its advisors and auditors.
3. Changes and amendments to this Agreement as well as declarations to be made hereunder shall be valid only if made in writing unless a notarial deed is legally required. This shall also apply to any change of this provision.
4. (a) The Seller shall appoint a Person which is authorized to make and accept with legally binding effect for the Seller all declarations under this Agreement or in consummation thereof.
- The Seller appoints as such agent:
- Shearman and Sterling
Breite Strasse 69
40213 Dusseldorf.
- (b) The Seller's Guarantor shall appoint a Person which is authorized to make and accept with legally binding effect for the Seller's Guarantor all declarations under this Agreement or in consummation thereof.
- The Seller's Guarantor appoints as such agent:
- Shearman and Sterling
Breite Strasse 69
40213 Dusseldorf.
- (c) The Purchaser shall appoint a Person which is authorized to make and accept with legally binding effect for the Purchaser all declarations under this Agreement or in consummation thereof.
- The Purchaser appoints as such agent:
- Skadden, Arps, Slate, Meagher and Flom LLP
An der Welle 5 / Reuterweg 18
60322 Frankfurt am Main.
- (d) The Purchaser's Guarantor shall appoint a Person which is authorized to make and accept with legally binding effect for the Purchaser's Guarantor all declarations under this Agreement or in consummation thereof.
- The Purchaser's Guarantor appoints as such agent:
- Skadden, Arps, Slate, Meagher and Flom LLP
An der Welle 5 / Reuterweg 18
60322 Frankfurt am Main.

(e) A change in the Person or address of such agent shall be effective for the other party only one month following the receipt of a written notification as to such change. Until the lapse of such period, the authority of the previous agent as well as its address shall be deemed to continue.

5. If a provision of this Agreement should be or become invalid or not contain a necessary regulation, the validity of the other provisions of this Agreement shall not be affected thereby. The invalid provision shall be replaced and the gap be filled by a legally valid arrangement which corresponds as closely as possible to the intention of the parties or what would have been the intention of the parties according to the aim and purpose of this Agreement if they had recognized the gap.

6. The Annexes to this Agreement form an integral part of this Agreement.

7. Reference is made to the notarial deed (URNr. H 2544/2002 of the recording notary public) dated of the same date, the contents of which are hereby confirmed by the parties hereto.

8. This Agreement shall be governed by the laws of the Federal Republic of Germany. Any dispute arising out of or in connection with this Agreement, including any dispute regarding the existence, scope, validity or termination of this Agreement or this arbitration clause (and including any tortious or statutory claims) shall be referred to and finally resolved exclusively by arbitration according to the Rules of Arbitration of the International Chamber of Commerce (ICC), which Rules of Arbitration are deemed to be incorporated by reference into this Section 8, except as modified herein.

The jurisdiction of the state courts shall be excluded. The seat of the arbitration shall be Paris, France. The arbitral tribunal shall consist of three arbitrators, one of whom shall be nominated by the Purchaser, one of whom shall be nominated by the Seller and the third of whom shall be nominated by the first two arbitrators, all nominated arbitrators being subject to confirmation by the ICC International Court of Arbitration ("ICC Court"). If either the Purchaser or the Seller fails to nominate an arbitrator within 20 days of a request in writing by the other to do so or if the first two arbitrators cannot agree on the appointment of a third arbitrator within 20 days after the nomination of the second arbitrator is confirmed, then such arbitrator shall be appointed by the ICC Court. The arbitrators shall use their best endeavors to conduct the proceedings quickly with the aim that an award will be rendered within 90 days after the last of the three arbitrators has been appointed or confirmed by the ICC Court. The arbitration proceedings shall be conducted in the English language and any resulting awards shall be rendered in the English language.

9. None of the parties hereto shall make, or cause to be made, except as maybe otherwise required by law, any disclosure or announcement in respect of this Agreement, its contents or any of the transactions contemplated thereby to any third party in the business community, without the prior written consent of the other party.

10. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, but this Agreement may not be assigned by any party without the written consent of the other parties; provided, however, that (i) this is not intended to restrict the Direct Purchases, and (ii) the Seller may be replaced by the Seller's Nominee under Part I Section 6.

11. The inclusion of any word or phrase in this Agreement in the German language shall not be deemed to place any limitations on the concept or item discussed therein.

The individuals present waive their rights to have the Annexes 2, 3, 7, 8, 10, 14, 18, 20, 23, 26, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 46, 47, 48, 52, 53, 54 and parts of the Annexes 6, 9, 12, 19, 41, 51 (not initialed ,,H") which are attached to this deed, read to them. Instead, these Annexes were presented to them for review and signing according to Sec. 14 Notarisation Act.

This notarial deed and the remaining Annexes and any Annexes thereto and those parts of the Annexes 6, 9, 12, 19, 41, 51 which are initialed ,,H", except for the Annex 27 which is attached to this deed only for identification purposes, were attached to this deed and read to the individuals present.

Thereafter the individuals present approved this deed including its Annexes and signed this deed with me, the notary, as follows:

Subsidiary Guarantees of Debt

The company's Senior Notes, Senior Subordinated Notes and Senior Credit Facility agreements are guaranteed on a full, unconditional and joint and several basis by certain of the company's wholly owned domestic subsidiaries. The following is condensed, consolidating financial information for the company, segregating the guarantor subsidiaries and non-guarantor subsidiaries, as of September 29, 2002, and December 31, 2001 (in millions of dollars). The presentation of certain prior-year amounts has been changed in order to conform to the current-year presentation. Separate financial statements for the guarantor subsidiaries and the non-guarantor subsidiaries are not presented because management has determined that such financial statements would not be material to investors.

CONSOLIDATED BALANCE SHEET					
September 29, 2002					
	Ball Corporation	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminating Adjustments	Consolidated Total
ASSETS					
Current assets					
Cash and cash equivalents	\$ 44.1	\$ 0.7	\$ 13.4	\$ -	\$ 58.2
Accounts receivable, net	0.2	273.9	25.3	-	299.4
Inventories, net	-	330.9	66.7	-	397.6
Deferred income tax benefits and prepaid expenses	217.1	121.8	0.6	(275.0)	64.5
Total current assets	261.4	727.3	106.0	(275.0)	819.7
Property, plant and equipment, at cost	26.8	1,718.6	255.2	-	2,000.6
Accumulated depreciation	(14.4)	(935.2)	(119.7)	-	(1,069.3)
	12.4	783.4	135.5	-	931.3
Investments in subsidiaries	1,775.1	45.4	9.8	(1,830.3)	-
Investments in affiliates	7.2	22.4	49.4	-	79.0
Goodwill, net	-	318.9	36.9	-	355.8
Other assets	112.6	65.4	18.3	-	196.3
Total Assets	\$ 2,168.7	\$ 1,962.8	\$ 355.9	\$ (2,105.3)	\$ 2,382.1
LIABILITIES AND SHAREHOLDERS' EQUITY					
Current liabilities					
Short-term debt and current portion of long-term debt	\$ 82.0	\$ -	\$ 52.1	\$ -	\$ 134.1
Accounts payable	12.0	236.2	38.9	-	287.1
Accrued employee costs and other current liabilities	38.5	431.7	47.5	(275.0)	242.7
Total current liabilities	132.5	667.9	138.5	(275.0)	663.9
Long-term debt	878.8	10.1	-	-	888.9
Intercompany borrowings	473.9	165.4	59.6	(698.9)	-
Employee benefit obligations, deferred income taxes and other	141.9	83.7	56.6	-	282.2
Total liabilities	1,627.1	927.1	254.7	(973.9)	1,835.0
Contingencies					
Minority interests	-	-	5.5	-	5.5
Shareholders' Equity:					
Convertible preferred stock	-	-	179.6	(179.6)	-
Preferred shareholders' equity	-	-	179.6	(179.6)	-
Common stock	508.8	724.6	239.2	(963.8)	508.8
Retained earnings (deficit)	522.2	334.5	(296.0)	(38.5)	522.2
Accumulated other comprehensive loss	(54.0)	(23.4)	(27.1)	50.5	(54.0)
Treasury stock, at cost	(435.4)	-	-	-	(435.4)
Common shareholders' equity (deficit)	541.6	1,035.7	(83.9)	(951.8)	541.6
Total shareholders' equity	541.6	1,035.7	95.7	(1,131.4)	541.6
Total Liabilities and Shareholders' Equity	\$ 2,168.7	\$ 1,962.8	\$ 355.9	\$ (2,105.3)	\$ 2,382.1

CONSOLIDATED BALANCE SHEET

	December 31, 2001				
	Ball Corporation	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminating Adjustments	Consolidated Total
ASSETS					
Current assets					
Cash and cash equivalents	\$ 52.7	\$ 0.4	\$ 30.0	\$ -	\$ 83.1
Accounts receivable, net	1.6	142.6	27.8	-	172.0
Inventories, net	-	375.5	73.8	-	449.3
Deferred income tax benefits and prepaid expenses	183.3	126.2	1.6	(222.0)	89.1
Total current assets	237.6	644.7	133.2	(222.0)	793.5
Property, plant and equipment, at cost					
Accumulated depreciation	25.9	1,620.2	258.7	-	1,904.8
	(13.8)	(870.8)	(115.8)	-	(1,000.4)
	12.1	749.4	142.9	-	904.4
Investments in subsidiaries					
Investments in affiliates	1,637.8	57.9	9.8	(1,705.5)	-
Goodwill, net	7.4	15.3	46.1	-	68.8
Other assets	-	326.6	31.2	-	357.8
	106.2	65.5	17.4	-	189.1
Total Assets	\$ 2,001.1	\$ 1,859.4	\$ 380.6	\$ (1,927.5)	\$ 2,313.6
LIABILITIES AND SHAREHOLDERS' EQUITY					
Current liabilities					
Short-term debt and current portion of long-term debt	\$ 67.0	\$ -	\$ 48.0	\$ -	\$ 115.0
Accounts payable	4.1	215.7	38.7	-	258.5
Accrued employee costs and other current liabilities	54.4	324.9	43.9	(222.0)	201.2
Total current liabilities	125.5	540.6	130.6	(222.0)	574.7
Long-term debt					
Intercompany borrowings	939.0	10.1	-	-	949.1
Employee benefit obligations, deferred income taxes and other	308.2	291.7	98.9	(698.8)	-
	124.3	95.4	56.3	-	276.0
Total liabilities	1,497.0	937.8	285.8	(920.8)	1,799.8
Contingencies					
Minority interests	-	-	9.7	-	9.7
Shareholders' Equity:					
Convertible preferred stock	-	-	179.6	(179.6)	-
Preferred shareholders' equity	-	-	179.6	(179.6)	-
Common stock					
Retained earnings (deficit)	478.9	724.5	239.2	(963.7)	478.9
Accumulated other comprehensive loss	410.0	207.8	(304.7)	96.9	410.0
Treasury stock, at cost	(43.7)	(10.7)	(29.0)	39.7	(43.7)
	(341.1)	-	-	-	(341.1)
Common shareholders' equity	504.1	921.6	(94.5)	(827.1)	504.1
Total shareholders' equity	504.1	921.6	85.1	(1,006.7)	504.1
Total Liabilities and Shareholders' Equity	\$ 2,001.1	\$ 1,859.4	\$ 380.6	\$ (1,927.5)	\$ 2,313.6

CONSOLIDATED STATEMENT OF EARNINGS

	For the Nine months Ended September 29, 2002				
	Ball Corporation	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminating Adjustments	Consolidated Total
Net sales	\$ -	\$ 2,854.9	\$ 281.3	\$ (187.5)	\$ 2,948.7
Costs and expenses					
Cost of sales (excluding depreciation					

and amortization)	-	2,425.2	237.7	(187.5)	2,475.4
Depreciation and amortization	1.5	94.9	12.6	-	109.0
Selling and administrative	19.2	83.0	14.8	-	117.0
Receivable securitization fees and other	-	3.0	(0.2)	-	2.8
Interest expense	40.9	7.7	6.5	-	55.1
Equity in net results of subsidiaries	(135.4)	-	-	135.4	-
Corporate allocations	(40.6)	40.6	-	-	-
	(114.4)	2,654.4	271.4	(52.1)	2,759.3
Earnings (loss) before taxes	114.4	200.5	9.9	(135.4)	189.4
Provision for taxes	13.2	(76.2)	(3.3)	-	(66.3)
Minority interests	-	-	(1.4)	-	(1.4)
Equity in net results of affiliates	(0.2)	2.4	3.5	-	5.7
Earnings (loss) attributable to common shareholders	\$ 127.4	\$ 126.7	\$ 8.7	\$ (135.4)	\$ 127.4

CONSOLIDATED STATEMENT OF EARNINGS

For the Nine months Ended September 30, 2001

	Ball Corporation	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminating Adjustments	Consolidated Total
Net sales	\$ -	\$ 2,708.8	\$ 331.2	\$ (196.9)	\$ 2,843.1
Costs and expenses					
Cost of sales (excluding depreciation and amortization)	-	2,339.7	283.9	(196.9)	2,426.7
Depreciation and amortization	1.5	95.6	17.6	-	114.7
Business consolidation costs	-	16.0	237.7	-	253.7
Selling and administrative	8.7	63.7	19.2	-	91.6
Receivable securitization fees and other	-	9.0	(0.3)	-	8.7
Interest expense	46.0	18.2	4.3	-	68.5
Equity in net results of subsidiaries	151.1	-	-	(151.1)	-
Corporate allocations	(39.4)	39.4	-	-	-
	167.9	2,581.6	562.4	(348.0)	2,963.9
Earnings (loss) before taxes	(167.9)	127.2	(231.2)	151.1	(120.8)
Provision for taxes	60.7	(45.6)	(3.8)	-	11.3
Minority interests	-	-	0.7	-	0.7
Equity in net results of affiliates	(0.1)	(0.4)	2.0	-	1.5
Net earnings (loss)	(107.3)	81.2	(232.3)	151.1	(107.3)
Preferred dividends, net of tax	(1.8)	-	-	-	(1.8)
Earnings (loss) attributable to common shareholders	\$ (109.1)	\$ 81.2	\$ (232.3)	\$ 151.1	\$ (109.1)

CONSOLIDATED STATEMENT OF CASH FLOWS

For the Nine months Ended September 29, 2002

	Ball Corporation	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminating Adjustments	Consolidated Total
Cash Flows from Operating Activities					
Net earnings (loss)	\$ 127.4	\$ 126.7	\$ 8.7	\$ (135.4)	\$ 127.4
Noncash charges to net earnings:					
Depreciation and amortization	1.5	94.9	12.6	-	109.0
Deferred income taxes	(15.4)	23.4	0.1	-	8.1
Equity in net results of subsidiaries	(135.4)	-	-	135.4	-
Other, net	14.7	(16.0)	(2.7)	-	(4.0)
Changes in working capital components	(16.4)	11.9	15.4	-	10.9
Net cash provided by (used in) operating activities	(23.6)	240.9	34.1	-	251.4
Cash Flows from Investing Activities					
Additions to property, plant and equipment	(2.1)	(80.3)	(5.3)	-	(87.7)
Acquisitions of previously leased assets	-	(43.1)	-	-	(43.1)
Investments in and advances to affiliates, net of dividends	152.8	(128.5)	(24.3)	-	-
Miscellaneous investments and					

other, net	(5.2)	11.3	(25.0)	-	(18.9)
Net cash provided by (used in) investing activities	145.5	(240.6)	(54.6)	-	(149.7)
Cash Flows from Financing Activities					
Repayments of long-term borrowings	(50.2)	-	-	-	(50.2)
Change in short-term borrowings	-	-	3.9	-	3.9
Common dividends	(15.3)	-	-	-	(15.3)
Proceeds from issuance of common stock under various employee and shareholder plans	29.3	-	-	-	29.3
Acquisitions of treasury stock	(94.3)	-	-	-	(94.3)
Net cash provided by (used in) financing activities	(130.5)	-	3.9	-	(126.6)
Net Change in Cash and Cash Equivalents	(8.6)	0.3	(16.6)	-	(24.9)
Cash and Cash Equivalents - Beginning of Period	52.7	0.4	30.0	-	83.1
Cash and Cash Equivalents - End of Period	\$ 44.1	\$ 0.7	\$ 13.4	\$ -	\$ 58.2

CONSOLIDATED STATEMENT OF CASH FLOWS

For the Nine months Ended September 30, 2001

	Ball Corporation	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminating Adjustments	Consolidated Total
Cash Flows from Operating Activities					
Net earnings (loss)	\$ (107.3)	\$ 81.2	\$ (232.3)	\$ 151.1	\$ (107.3)
Noncash charges to net earnings:					
Depreciation and amortization	1.5	95.6	17.6	-	114.7
Business consolidation costs	-	16.0	235.2	-	251.2
Deferred income taxes	(25.6)	46.1	2.1	-	22.6
Equity in net results of subsidiaries	151.1	-	-	(151.1)	-
Other, net	9.7	(31.8)	(1.7)	-	(23.8)
Changes in working capital components	(50.5)	(104.7)	2.3	-	(152.9)
Net cash provided by (used in) operating activities	(21.1)	102.4	23.2	-	104.5
Cash Flows from Investing Activities					
Additions to property, plant and equipment	(2.2)	(36.2)	(11.1)	-	(49.5)
Investments in and advances to affiliates, net of dividends	114.1	(83.1)	(31.0)	-	-
Incentive loan receipts and other, net	(0.8)	17.2	2.6	-	19.0
Net cash provided by (used in) investing activities	111.1	(102.1)	(39.5)	-	(30.5)
Cash Flows from Financing Activities					
Repayments of long-term borrowings	(39.0)	-	-	-	(39.0)
Change in short-term borrowings	3.5	-	25.1	-	28.6
Common and preferred dividends	(14.4)	-	-	-	(14.4)
Proceeds from issuance of common stock under various employee and shareholder plans	23.4	-	-	-	23.4
Acquisitions of treasury stock	(58.1)	-	-	-	(58.1)
Other, net	(3.7)	-	-	-	(3.7)
Net cash provided by (used in) financing activities	(88.3)	-	25.1	-	(63.2)
Net Change in Cash and Cash Equivalents	1.7	0.3	8.8	-	10.8
Cash and Cash Equivalents - Beginning of Period	12.3	0.2	13.1	-	25.6
Cash and Cash Equivalents - End of Period	\$ 14.0	\$ 0.5	\$ 21.9	\$ -	\$ 36.4

**Safe Harbor Statement Under the Private Securities
Litigation Reform Act of 1995**

In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 (the Reform Act), Ball is hereby filing cautionary statements identifying important factors that could cause Ball's actual results to differ materially from those projected in forward-looking statements of Ball. From time-to-time we also may provide oral or written forward-looking statements in other material we release to the public. Forward-looking statements may be made in several different contexts; for example, in the quarterly and annual earnings news releases, the quarterly earnings news conferences hosted by the company, public presentations at industry, investor and credit conferences, the company's Annual Report and in annual and periodic communications with investors. Management's Discussion and Analysis of Financial Condition and Results of Operations contains forward-looking statements, and many of these statements are contained in Part I, Item 2, "Business." The Reform Act defines forward-looking statements as statements that express or imply an expectation or belief and contain a projection, plan or assumption with regard to, among other things, future revenues, income, earnings per share, cash flow or capital structure. Such statements of future events or performance involve estimates, assumptions and uncertainties, and are qualified in their entirety by reference to, and are accompanied by, the following important factors that could cause Ball's actual results to differ materially from those contained in forward-looking statements made by or on behalf of Ball. Forward-looking statements in the periodic reports filed with the Securities and Exchange Commission are made as of the end of the close of the time frame covered by the report. As time passes the relevance and accuracy of forward-looking statements may change. The company does not intend to publicly update forward-looking statements except as it deems necessary at quarterly or annual earnings reports. You are advised, however, to consult any further disclosures we make on related subjects in our 10-Q, 8-K and 10-K reports to the Securities and Exchange Commission.

Some important factors that could cause Ball's actual results or outcomes to differ materially from those discussed in forward-looking statements include, but are not limited to:

- o Fluctuation in customer growth and demand, including loss of major customers; manufacturing overcapacity; lack of productivity improvement or production cost reductions; weather; fruit, vegetable and fishing yields; changes in generally accepted accounting principles or their interpretation; regulatory action and federal, state and local laws, including mandated corporate governance and financial reporting laws; the proposed German mandatory deposit or other restrictive packaging legislation such as recycling laws; interest rates; labor strikes and work stoppages; boycotts; litigation involving antitrust, intellectual property, consumer and other issues; goodwill impairment; inability to continue the purchase of the company's shares; maintenance and capital expenditures; capital availability; economic conditions and acts of war, terrorism or catastrophic events.
- o Competition in pricing and the possible decrease in, or loss of, sales resulting therefrom; loss of profitability and plant closures, as well as the impact of price increases on financial results.
- o The timing and extent of regulation or deregulation, competition in each line of business, product development and introductions and technology changes.
- o Ball's ability or inability to have available sufficient production capacity in a timely manner.
- o Overcapacity in foreign and domestic metal and plastic container industry production facilities and its impact on pricing and financial results.
- o Difficulties in obtaining raw materials, supplies, energy such as gas and electric power, and natural resources needed for the production of metal and plastic containers as well as aerospace products.
- o The pricing of raw materials, supplies, power and natural resources needed for the production of metal and plastic containers as well as aerospace products, pricing and ability or inability to sell scrap associated with the production of metal containers and the effect of changes in the cost of transporting and warehousing the company's products.
- o The ability or inability to pass on to customers changes in raw material cost, particularly resin, steel and aluminum.
- o International business and market risks, particularly in foreign developing countries such as China and Brazil, including political and economic instability in foreign markets, restrictive trade practices of foreign governments, sudden policy changes by foreign governments, the imposition of duties, taxes or other government charges, foreign exchange rate risk, exchange controls and national and regional labor strikes or work stoppages.
- o The ability or inability to obtain adequate credit resources for foreseeable financing requirements of the company's businesses.
- o Undertaking successful and unsuccessful acquisitions, joint ventures and divestitures and the integration activities associated with acquisitions and joint ventures, including the acquisition and integration of the business of Schmalbach-Lubeca AG.
- o The failure to make cash payments and satisfy other debt obligations.
- o The ability or inability to achieve technological and product advances in the company's businesses.
- o The success or lack of success of satellite launches and the businesses and governments associated with the launches.
- o The authorization, funding and availability of government contracts and the nature and continuation of those contracts and related services, the cancellation or termination of government contracts for the U.S. government, other customers or other government contractors, and the technical uncertainty associated with the performance of aerospace segment contracts.
- o Actual vs. estimated business consolidation and investment exit costs and the estimated net realizable values of assets associated with such activities.
- o Fluctuation in the fiscal and monetary policy established by the U.S. government and the European Union.