IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

IN RE:	§	**Case No. 05-21207**
	§	
ASARCO LLC, et al.	§	**Chapter 11**
	§	
Debtors.	§	**(Jointly Administered)**
	§	

SIXTH AMENDED JOINT PLAN OF REORGANIZATION FOR THE DEBTORS UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE, AS MODIFIED, WITH FURTHER TECHNICAL AND CLARIFYING MODIFICATIONS AS OF AUGUST 7, 2009

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INJUNCTIONS

This plan of reorganization provides, in certain circumstances, for the issuance of a channeling injunction regarding asbestos claims and demands asserted against the ASARCO Protected Parties, *see* Article 11.3(a), and the issuance of an injunction in favor of Settling Asbestos Insurance Companies, *see* Article 11.3(b).

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Exhibit Designation	Exhibit Title
Plan Exhibit 1	List of ASARCO Protected Non-Debtor Affiliates
Plan Exhibit 2	List of Executory Contracts and Unexpired Leases to be Assumed Under the Plan
Plan Exhibit 3	Form of Plan Administration Agreement
Plan Exhibit 4	Form of Liquidation Trust Agreement
Plan Exhibit 5	Form of SCC Litigation Trust Agreement
Plan Exhibit 6	Form of Asbestos Trust Agreement
Plan Exhibit 7	List of Asbestos Insurance Settlement Agreements
Plan Exhibit 8	List of Asbestos Insurance Policies
Plan Exhibit 9	Sterlite Plan Agreement in Principle Term Sheet
Plan Exhibit 10	List of Designated Properties to be Transferred to Environmental Custodial Trusts and Schedule of Environmental Custodial Trust Funding
Plan Exhibit 11	Lists of Previously Settled Environmental Claims and Miscellaneous Federal and State Environmental Claims
Plan Exhibit 12	List of Sites Referred to in Article 11.11(a) of the Plan
Plan Exhibit 13	Form of Organizational Documents for the Reorganized Debtors
Plan Exhibit 14	Schedules of Litigation Claims
Plan Exhibit 15	Mission Mine Settlement Agreement
Plan Exhibit 16	List of Class 2 Secured Claims
Plan Exhibit 17	SPT Settlement Agreement

ASARCO LLC and the Subsidiary Debtors, as the debtors and debtors in possession, respectfully propose the following joint plan of reorganization pursuant to section 1121(a) of the Bankruptcy Code.

ARTICLE I

DEFINITIONS, RULES OF INTERPRETATION, AND COMPUTATION OF TIME

1.1 Defined Terms. Capitalized terms used in this Plan have the meanings set forth in the Glossary, which is **Exhibit A-1** to the Disclosure Statement. Capitalized terms used in this Plan which are not defined in the Glossary but which are defined in the Bankruptcy Code shall have the respective meaning specified in the Bankruptcy Code.

1.2 Rules of Interpretation. Unless otherwise provided herein for purposes of this Plan: (a) whenever it is appropriate from the context, each term, whether stated in the singular or the plural, shall include both the singular and the plural; (b) any reference in this Plan to a contract, instrument, release, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) any reference in this Plan to an existing document or exhibit filed or to be filed means such document or exhibit, as it may have been or may be amended, modified, or supplemented pursuant to this Plan; (d) any reference to any Entity as a holder of a Claim includes that Entity's successors and assigns; (e) all references in this Plan to sections, articles, and exhibits are references to sections, articles, and exhibits of or to this Plan; (f) the words "herein," "hereof," "hereunder," "hereto," and others of similar import refer to this Plan in its entirety rather than to a particular portion of this Plan; (g) captions and headings to articles and sections are inserted for convenience of reference only and are not intended to be a part of, or to affect the interpretation of, this Plan; and (h) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply.

1.3 Computation of Time. In computing any period of time prescribed or allowed by this Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

ARTICLE II

TREATMENT OF ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS, AND DEMANDS

2.1 Administrative Claims. Each holder of an Allowed Administrative Claim (except any holder that agrees to other, lesser treatment) shall receive the Allowed Amount of such holder's Administrative Claim, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the Effective Date; *provided*, *however*, that (a) Allowed Administrative Claims representing (1) post-petition liabilities incurred in the ordinary course of business by a Debtor or (2) post-petition contractual liabilities arising under loans or advances to any Debtor, whether or not incurred in the ordinary course of business, shall be paid in accordance with the terms and conditions of the particular transactions relating to such liabilities

and any agreements relating thereto; and (b) the Allowed Administrative Claims of Professional Persons shall be paid pursuant to order of the Bankruptcy Court; and *further provided* that all Assumed Liabilities shall be paid by the Plan Sponsor. Chase shall receive the Allowed Amount of any Administrative Claim under the Credit Facility in Cash, on the Effective Date, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim. ASARCO's Administrative Claim against the Asbestos Subsidiary Debtors under the Secured Intercompany DIP Credit Facility shall be credited against the Cash component of the Plan Consideration to be contributed by the Debtors to the Asbestos Trust on the Initial Distribution Date. Any Administrative Claims of the United States or any individual state under civil Environmental Laws relating to the Designated Properties shall be addressed through the Environmental Custodial Trust Settlement Agreements, the Environmental Custodial Trust Funding, and the Environmental Custodial Trust Administration Funding to be paid by ASARCO to the Environmental Custodial Trusts. The Settling Asbestos Insurance Companies shall each have an Allowed Administrative Claim for the Pre-524(g) Indemnity (as such term is defined in the applicable Asbestos Insurance Settlement Agreement), in accordance with the terms and conditions of such Asbestos Insurance Settlement Agreement.

2.2 Priority Tax Claims. Each holder of an Allowed Priority Tax Claim (except any holder that agrees to other, lesser treatment) shall receive the Allowed Amount of such holder's Priority Tax Claim, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the Effective Date.

2.3 Demands. Demands shall be included in the treatment accorded Class 4 Unsecured Asbestos Personal Injury Claims, as set forth in Articles 4.1 and 4.2(d) of this Plan, and shall be determined, processed, liquidated, and paid pursuant to the terms and conditions of the Asbestos TDP and the Asbestos Trust Agreement.

ARTICLE III

CLASSIFICATION OF CLAIMS AND INTERESTS

3.1 Generally. Pursuant to section 1122 of the Bankruptcy Code, Claims and Interests, other than Administrative Claims and Priority Tax Claims, shall be divided into the Classes set forth in Article 3.2 of this Plan. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in a different Class to the extent that the Claim or Interest falls within the description of that different Class.

3.2 Classes of Claims and Interests. The following constitute the Classes of Claims against the Debtors and Interests addressed by this Plan.

(a) Class 1 – Priority Claims. Class 1 consists of all Priority Claims against the Debtors.

(b) Class 2 – Secured Claims. Class 2 consists of all Secured Claims against the Debtors.

(c) Class 3 – General Unsecured Claims. Class 3 consists of all General Unsecured Claims against the Debtors.

(d) Class 4 – Unsecured Asbestos Personal Injury Claims. Class 4 consists of all Unsecured Asbestos Personal Injury Claims against the Debtors.

(e) Class 5 – Convenience Claims. Class 5 consists of all Convenience Claims against the Debtors.

(f) Class 6 – Late-Filed Claims. Class 6 consists of all Late-Filed Claims against the Debtors.

(g) Class 7 – Subordinated Claims. Class 7 consists of all Subordinated Claims against the Debtors.

(h) Class 8 – Interests in ASARCO. Class 8 consists of all Interests in ASARCO.

(i) Class 9 – Interests in the Asbestos Subsidiary Debtors. Class 9 consists of all Interests in the Asbestos Subsidiary Debtors.

(j) Class 10 – Interests in the Other Subsidiary Debtors. Class 10 consists of all Interests in the Other Subsidiary Debtors.

ARTICLE IV

TREATMENT OF CLAIMS AND INTERESTS

Claims and Interests shall be treated in the manner set forth in this Article IV.

4.1 Unclassified Claims. Each holder of an Allowed Administrative Claim, an Allowed Priority Tax Claim, or a Demand shall receive the treatment set forth respectively for each such category in Article II of this Plan.

4.2 Classes of Claims and Interests.

(a) *Class 1 – Priority Claims*.

On the Effective Date or, if later, the date or dates that such Priority Claim becomes due in the ordinary course, each holder of an Allowed Priority Claim (except any holder that agrees to other, lesser treatment) shall receive the Allowed Amount of such holder's Priority Claim, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim.

This Class is unimpaired. Class 1, and holders of Priority Claims in Class 1, are conclusively presumed to have accepted this Plan and, accordingly, are not entitled to vote on this Plan.

(b) *Class 2 – Secured Claims*.

Each holder of an Allowed Secured Claim shall, at the election of the Debtors, either (1) receive the Allowed Amount of such holder's Secured Claim, together with post-petition interest to the extent and at the rate provided in section 506(b) of the Bankruptcy Code, in Cash, on the later of the Effective Date or the date or dates that such Secured Claim becomes due in the ordinary course, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim and any related Lien, or (2) be Reinstated on the Effective Date; *provided, however*, that any Allowed Secured Claim that is secured by a Lien on any Sold Assets shall receive the Allowed Amount of such holder's Claim with applicable post-petition interest on the applicable date(s) and shall not be Reinstated.

The Secured Claims of the United States relating to the East Helena, Montana facility and the Globe, Colorado facility, and any Secured Claims relating to the Prepetition ASARCO Environmental Trust shall be satisfied by having the holders of such Claims retain the Liens securing such Claims, unless a holder agrees to different treatment. In addition, upon the Effective Date, the causes of action asserted by the Debtors against the United States of America on behalf of the EPA, the USDA, the Interior, and the International Boundary and Water Commission in Adversary Proceeding No. 07-02076 (and only those causes of action) shall be dismissed without prejudice.

No Secured Asbestos Personal Injury Claims have been filed against the Debtors or scheduled by the Debtors; therefore, all of the Asbestos Personal Injury Claims are Unsecured. This Plan nonetheless provides, out of an abundance of caution, the following treatment for Secured Asbestos Personal Injury Claims. Except as otherwise provided herein, any Asbestos Personal Injury Claimant with a Lien against any property of the Debtors other than proceeds of an Asbestos Insurance Policy shall retain the Lien securing such Claim, subject to the Debtors' election in this Article 4.2(b). Secured Asbestos Personal Injury Claims, which are secured by Liens against proceeds of an Asbestos Insurance Policy, shall be included in the treatment accorded Class 4 Unsecured Asbestos Personal Injury Claims, as set forth in Article 4.2(d) of this Plan, and shall be determined, processed, liquidated, and paid pursuant to the terms and conditions of the Asbestos TDP and the Asbestos Trust Agreement; *provided, however*, that the Asbestos Trust may assert any rights (including avoidance rights), defenses (including affirmative defenses), and objections that the Debtors have against such Claims, which rights, defenses, and objections are transferred to the Asbestos Trust pursuant to this Plan.

Each Secured Claim shall be deemed to be in a separate sub-Class of Class 2 for all purposes hereunder, and treated as a separate sub-Class for voting and solicitation purposes. **Exhibit 16** attached hereto lists the Class 2 Secured Claims (as such list may be amended, supplemented, or modified up to and including the Confirmation Date).

The Debtors shall make their election on or before the Confirmation Date. The Debtors shall solicit the votes of each sub-Class of Secured Claims. If the Debtors elect to Reinstate a particular Secured Claim, that sub-Class shall be unimpaired, and that

sub-Class's vote shall not be counted. If the Debtors elect the Cash payment option as to a particular Secured Claim, that sub-Class shall be impaired, and that sub-Class's vote shall be counted.

(c) *Class 3 – General Unsecured Claims.*

Subject to the provisions of Article 4.3 of this Plan, each holder of an Allowed General Unsecured Claim (except any holder that agrees to other, lesser treatment) shall receive such holder's Class 3 Claimant's Ratable Portion of the Plan Consideration on or after the Effective Date, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim.

Notwithstanding the foregoing, all distributions to holders of Allowed Bondholders' Claims shall be subject to, and the allocations made herein shall be reduced on a pro rata basis by, the Charging Lien to the extent of any unpaid Indenture Trustee Fee Claims that are not paid pursuant to Article 15.14 of this Plan.

With respect to (1) the Allowed General Unsecured Claims of Governmental Units covered by the (A) the Miscellaneous Federal and State Environmental Settlement Agreement, (B) the Residual Environmental Settlement Agreement, (C) the Arizona NRD Settlement Agreement, (D) the Hayden Past Cost Settlement Agreement, and (E) the Mission Mine Settlement Agreement; and (2) all Previously Settled Environmental Claims, the satisfaction, settlement, release, extinguishment, and discharge of such Claims is as provided in such agreements.

This Class is impaired. Holders of General Unsecured Claims in Class 3 are entitled to vote to accept or reject this Plan.

(d) *Class 4 – Unsecured Asbestos Personal Injury Claims.*

On the Effective Date, liability of all of the Debtors for all Unsecured Asbestos Personal Injury Claims and Demands shall be assumed by, and channeled to, the Asbestos Trust without further act or deed and satisfied as set forth herein.

All Unsecured Asbestos Personal Injury Claims and Demands shall be processed, liquidated, and paid pursuant to the terms and provisions of the Asbestos TDP and the Asbestos Trust Agreement. The Asbestos Trust is described in Article VII below. With respect to any ASARCO Protected Party only, the sole recourse of the holder of an Unsecured Asbestos Personal Injury Claim or Demand shall be the Asbestos Trust and the Asbestos TDP, and such holder shall have no rights whatsoever at any time to assert such holder's Claim or Demand against any ASARCO Protected Party. Without limiting the foregoing, on the Effective Date, all Persons shall be permanently and forever stayed, restrained, and enjoined from taking any enjoined actions against any ASARCO Protected Party (or the property or interest in property of any ASARCO Protected Party) for the purpose of, directly or indirectly, collecting, recovering, or receiving payment of, on, or with respect to any Unsecured Asbestos Personal Injury Claim or Demand.

The Asbestos Trust shall be funded, on the Effective Date, with (1) directly or indirectly, the Asbestos Insurance Recoveries; (2) 100 percent of the interests in Reorganized Covington; (3) the Asbestos Ratable Portion of the Plan Consideration; and (4) $27.5 million in Cash for purposes of Asbestos Trust Expenses. Class 4 Claims and Demands shall be processed, liquidated, and paid pursuant to the terms and provisions of the Asbestos TDP and the Asbestos Trust Agreement.

This Class is impaired. Holders of Unsecured Asbestos Personal Injury Claims in Class 4 are entitled to vote to accept or reject this Plan.

(e) *Class 5 – Convenience Claims.*

On the Effective Date, each holder of a Convenience Claim shall receive the Allowed Amount of such holder's Claim, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim. Election by the holder of an Allowed General Unsecured Claim otherwise treated under Class 3 of this Plan to reduce the Claim of such holder to $1,000 and to receive distribution as a Class 5 Convenience Claim shall constitute acceptance of this Plan and a waiver of the right to recover any amount in excess of $1,000 from any of the Debtors.

This Class is unimpaired. Class 5, and holders of Convenience Claims in Class 5, are conclusively presumed to have accepted this Plan and, accordingly, are not entitled to vote on this Plan.

(f) *Class 6 – Late-Filed Claims.*

Except as provided in Article 4.3 of this Plan, the holders of Late-Filed Claims shall not receive or retain any property under this Plan on account of such Claims.

This Class is impaired. Class 6 is deemed to have rejected this Plan and, accordingly, is not entitled to vote on this Plan.

(g) *Class 7 – Subordinated Claims.*

Except as provided in Article 4.3 of this Plan, the holders of Subordinated Claims shall not receive or retain any property under this Plan on account of such Claims.

This Class is impaired. Class 7 is deemed to have rejected this Plan and, accordingly, is not entitled to vote on this Plan.

(h) *Class 8 – Interests in ASARCO.*

Except as provided in Article 4.3 of this Plan, the holders of Interests in ASARCO shall not receive or retain any property under this Plan on account of such Interests.

This Class is impaired. Class 8 is deemed to have rejected this Plan and, accordingly, is not entitled to vote on this Plan.

(i) *Class 9 – Interests in the Asbestos Subsidiary Debtors*.

The holders of Interests in the Asbestos Subsidiary Debtors shall not receive or retain any property under this Plan on account of such Interests.

This Class is impaired. Class 9 is deemed to have rejected this Plan and, accordingly, is not entitled to vote on this Plan.

(j) *Class 10 – Interests in the Other Subsidiary Debtors*.

The holders of Interests in the Other Subsidiary Debtors shall not receive or retain any property under this Plan on account of such Interests.

This Class is impaired. Class 10 is deemed to have rejected this Plan and, accordingly, is not entitled to vote on this Plan.

4.3 Allocation of Interests in the Liquidation Trust and in the SCC Litigation Trust; Possible Allocation of a Percentage of Interests in the SCC Litigation Trust to Other Classes.

(a) At the Confirmation Hearing, the Debtors will request that the Bankruptcy Court determine the value, as of the Confirmation Date, of the Plan Consideration, including the value of (1) the aggregate interests in the Liquidation Trust and (2) the aggregate interests in the SCC Litigation Trust. In addition, the Debtors will request that the Bankruptcy Court determine that the value, as of the Confirmation Date, of the Plan Consideration that is to be distributed on account of Class 3 Claims and Class 4 Claims under this Plan (without regard to Article 4.3(b) hereof) does not exceed the amount necessary for Claims in Class 3 and Class 4 to be Paid in Full (assuming the value attributable to the SCC Litigation Trust Interests and the Liquidation Trust Interests were converted to Cash). If the Bankruptcy Court determines that the distribution of the Plan Consideration on account of Class 3 and Class 4 Claims will not result in such Claims being paid more than an amount necessary for such Claims to be Paid in Full (assuming the value attributable to the SCC Litigation Trust Interests and the Liquidation Trust Interests were converted to Cash), then 100 percent of the interests in the Liquidation Trust and 100 percent of the interests in the SCC Litigation Trust (excluding any interests in the SCC Litigation Trust that are successfully sold pursuant to an auction occurring on or before the Effective Date of this Plan) shall be distributed to Class 3 Claimants and for the benefit of Class 4 Claimants in accordance with Article 4.2 and Article VI of this Plan.

(b) If the Bankruptcy Court determines that the value of the Plan Consideration, as of the Confirmation Date, exceeds the amount necessary for Claims in Class 3 and Class 4 to be Paid in Full (assuming the value attributable to the SCC Litigation Trust Interests and the Liquidation Trust Interests were converted to Cash), then the Bankruptcy Court shall determine the percentage of interests in the SCC Litigation Trust necessary to be distributed on the Effective Date (after taking into account the distribution of the Plan Consideration other than the SCC Litigation Trust Interests) for the aggregate value of the Plan Consideration to be in an amount necessary for Claims in Class 3 and Class 4 to be Paid in Full (assuming the value attributable to the SCC Litigation Trust Interests and the Liquidation Trust Interests were converted to Cash), but no more. That percentage of interests in the SCC Litigation Trust shall be issued and distributed to Class 3 and for the benefit of Class 4 in accordance with Article 4.2

of this Plan. By way of illustration, if the value of the SCC Litigation Trust were determined to be $1 billion on the Effective Date and the amount necessary for the Claims in Class 3 and Class 4 to be Paid in Full (after the credit for the Plan Consideration distributed on account of such Claims on the Effective Date) were to total $800 million, 80 percent of the interests in the SCC Litigation Trust would be distributed to Class 3 and Class 4 in accordance with Article 4.2 of this Plan. After the distribution to Class 3 and Class 4, the remaining interests in the SCC Litigation Trust (in the foregoing illustration, the remaining 20 percent of such interests) shall be distributed until the value of such interests, based on the Bankruptcy Court's valuation, is fully exhausted, in the following order:

First, on account of the Allowed Amounts of any Class 6 Claims, on a Pro Rata basis, until such Claims are Paid in Full (assuming the value attributable to the SCC Litigation Trust Interests and the Liquidation Trust Interests were converted to Cash); *provided, however,* the SCC Litigation Trust Interests, if any, distributed to the Class 6 Claimants shall at all times be a subordinated interest that is not entitled to receive distributions from the SCC Litigation Trust unless and until Claimants in Class 3 and Class 4 (or their assignees or other successors in interest, which shall be deemed to include the counterparties to the Put Option if the Put Option is exercised) are Paid in Full on account of the Allowed Claims of Claimants in Class 3 and Class 4;

Second, on account of Class 7 Claims, on a Pro Rata basis, until such Claims are Paid in Full; *provided, however,* the SCC Litigation Trust Interests, if any, distributed to the Class 7 Claimants shall at all times be a subordinated interest that is not entitled to receive distributions from the SCC Litigation Trust unless and until Claimants in Class 3, Class 4, and Class 6 (or their assignees or other successors in interest, which shall be deemed to include the counterparties to the Put Option if the Put Option is exercised) are Paid in Full on account of the Allowed Claims of Claimants in Class 3, Class 4, and Class 6; and

Third, on account of Class 8 Interests, on a Pro Rata basis; *provided, however*, the SCC Litigation Trust Interests, if any, distributed to the holders of Class 8 Interests shall at all times be a subordinated interest that is not entitled to receive distributions from the SCC Litigation Trust unless and until the aggregate distributions from the SCC Litigation Trust to Claims in Classes 3, 4, 6, and 7 (or their assignees or other successors in interest, which shall be deemed to include the counterparties to the Put Option if the Put Option is exercised) are Paid in Full based on the amount at which those Claims are Allowed by the Plan Administrator or as determined by the Bankruptcy Court.

(c) In any event, the Plan Consideration (including the interests in the Liquidation Trust and in the SCC Litigation Trust) shall pass without limitation or restriction to the recipients under this Plan (as well as to any successful bidder at an auction of the interests in the SCC Litigation Trust, upon satisfaction of the terms of such auction) and such recipients shall be entitled to retain all Cash or other property ultimately realized from the Plan Consideration (or from the auctioned SCC Litigation Interests) even if the amount ultimately realized in the future exceeds the amount necessary for such Claimants to have been Paid in Full under this Plan (or the amounts paid in connection with any auction of interests in the SCC Litigation Trust). For avoidance of doubt, the Bankruptcy Court's determination under this provision shall constitute a finding that the damages recoverable by the SCC Litigation Trust on account of the SCC Final

Judgment shall not be subject to any limitation, reduction, or cap attributable to the aggregate claims owed by the Debtors or that are to be paid or otherwise satisfied under this Plan.

4.4 Intercompany Claims. Intercompany Claims shall be treated as follows:

(a) any and all Claims of the Asbestos Subsidiary Debtors against ASARCO, including any and all Derivative Asbestos Claims, shall be resolved pursuant to the Asbestos Settlement and shall be deemed satisfied by the funding of the Asbestos Trust as contemplated under this Plan;

(b) ASARCO's Administrative Claims under the Secured Intercompany DIP Credit Facility shall be credited against the Cash component of the Plan Consideration to be contributed by the Debtors to the Asbestos Trust on the Initial Distribution Date; and

(c) all other Intercompany Claims shall be released and extinguished pursuant to this Plan, and no distributions shall be made under this Plan with respect to such Claims. Holders of such Claims shall not be entitled to vote on this Plan.

4.5 Entitlement to Post-Petition Interest at a Rate Other than the Plan Rate and Reimbursement of Attorneys' Fees and Other Costs and Expenses.

Any Claimant seeking (a) payment of post-petition interest on such holder's Claim at a rate other than the Plan Rate or (b) reimbursement of attorneys' fees and other costs and expenses associated with such holder's Claim (or both) shall file a motion seeking such relief within 30 days after the Effective Date. Any such motion must include all of the documentation upon which the Claimant relies to establish the Claimant's entitlement to (a) post-petition interest at a rate other than the Plan Rate and (b) attorneys' fees and other costs and expenses. **THE INCLUSION OF THE ENTITLEMENT TO THESE TYPES OF CLAIMS IN PROOFS OF CLAIM SHALL NOT BE SUFFICIENT TO ESTABLISH SUCH CLAIMS WITHOUT A SUPPLEMENTAL FILING BY A CLAIMANT WITHIN THE SPECIFIED TIME PERIOD.** The Plan Administrator shall have 60 days after the Effective Date to resolve any such objection without need of Bankruptcy Court approval in which case the Plan Administrator shall file with the Bankruptcy Court a notice that the matter has been resolved; *provided, however*, that the Bankruptcy Court retains jurisdiction to resolve such matters in the event the Plan Administrator and the Claimant cannot reach an agreement.

ARTICLE V

VOTING RIGHTS

5.1 Each Impaired Class Entitled to Vote Separately. The holders of Claims in each impaired Class of Claims in Classes 2 (unless certain sub-Classes of the Class 2 Secured Claims are Reinstated, in which case they shall be unimpaired and not entitled to vote) through 4 shall be entitled to vote separately to accept or reject this Plan. Any Class of Claims or Interests that does not have any voting members as of the date of the Confirmation Hearing shall be deemed eliminated from this Plan for purposes of voting to accept or reject this Plan and for purposes of determining acceptance or rejection of this Plan pursuant to section 1129(a)(8) of the Bankruptcy Code.

5.2 Presumed Acceptance of Plan. Classes 1 and 5 are unimpaired. Any sub-Class of Class 2 Secured Claims that, at the election of the Debtors, is Reinstated, shall also be unimpaired. Pursuant to section 1126(f) of the Bankruptcy Code, the holders of Claims in such Classes and sub-Classes are conclusively presumed to have voted to accept this Plan.

5.3 Presumed Rejection of Plan. Classes 6 through 10 shall not receive or retain any property under this Plan on account of their Claims or Interests. Pursuant to section 1126(g) of the Bankruptcy Code, the holders of Claims and Interests in such Classes are deemed to have rejected this Plan.

5.4 Cramdown. If all applicable requirements for Confirmation of this Plan are met as set forth in section 1129(a)(1) through (13) of the Bankruptcy Code *except* subsection (8) thereof, this Plan shall be treated as a request by the Debtors for Confirmation of this Plan in accordance with section 1129(b) of the Bankruptcy Code, notwithstanding the failure to satisfy the requirements of section 1129(a)(8), on the basis that this Plan is fair and equitable and does not discriminate unfairly with respect to each Class of Claims and Interests that is impaired under, and has not accepted, this Plan.

ARTICLE VI

THE LIQUIDATION TRUST AND THE SCC LITIGATION TRUST

6.1 The Liquidation Trust.

(a) *Creation of the Liquidation Trust*.

On the Effective Date, the Liquidation Trust shall be created, as provided in the Liquidation Trust Agreement. The Liquidation Trust shall be a Delaware trust organized under the Delaware Statutory Trust Act. Prior to the Effective Date, the Liquidation Trust Agreement may be amended to include new or different terms in order to comply with the requirements of the Bankruptcy Code, including, without limitation, section 1129(a) and (b) of the Bankruptcy Code.

(b) *Appointment of Trustees*.

The Plan Administrator shall serve as the Liquidation Trustee. Upon approval in the Confirmation Order, the Liquidation Trustee shall be appointed. The Liquidation Trustee shall report to the Liquidation Trust Board.

The Liquidation Trustee shall have and perform all of the rights, powers, and duties set forth in the Liquidation Trust Agreement.

The Liquidation Trust Agreement provides for the appointment of a Delaware Trustee and has other appropriate provisions relating to a Delaware Trustee. ASARCO shall designate the Person who shall initially serve as Delaware Trustee of the Liquidation Trust.

The duties, responsibilities, rights, and obligations of the Liquidation Trustee and the Delaware Trustee for the Liquidation Trust shall terminate in accordance with the terms of the Liquidation Trust Agreement.

(c) *Liquidation Trust Board*.

The Liquidation Trust Board shall consist of three members initially selected as follows: (1) one selected by the ASARCO Committee; (2) one selected by the DOJ (in consultation with the states that have Allowed environmental Claims); and (3) one selected by the Asbestos Claimants' Committee and the FCR.

Successors to the members of the Liquidation Trust Board shall be selected as follows: (1) in the case of the member originally selected by the ASARCO Committee, by the then-current holders of a majority of the Class A Liquidation Trust Interests; (2) in the case of the member originally selected by the DOJ, by the then-current holders of a majority of the Class B Liquidation Trust Interests; and (3) in the case of the member originally selected by the Asbestos Claimants' Committee and the FCR, by the then-current holders of a majority of the Class C Liquidation Trust Interests; *provided, however*, that any holder of Class A Liquidation Trust Interests, Class B Liquidation Trust Interests, or Class C Liquidation Trust Interests who is a party adverse to ASARCO in any Liquidation Trust Claim, or is an Affiliate of any party adverse to ASARCO in any Liquidation Trust Claim, shall not be entitled to the foregoing selection rights. If no holder of Liquidation Trust Interests in a particular class is eligible to select a member of the Liquidation Trust Board, the board shall proceed without a member selected by that class.

(d) *Purpose of the Liquidation Trust*.

The Liquidation Trust shall be established as a statutory trust for the purpose of holding the assets of the Liquidation Trust and disposing of the same in accordance with this Plan and the Liquidation Trust Agreement and liquidating all assets of the Liquidation Trust for the benefit of the Liquidation Trust Beneficiaries (including through the pursuit of the Liquidation Trust Claims). The primary purpose of the Liquidation Trust is to liquidate its assets, and the Liquidation Trust shall have no objective or authority to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidation Trust.

(e) *Transfer of the Liquidation Trust Claims and the Plan Sponsor Promissory Note to the Liquidation Trustee*.

On the Effective Date (or with respect to clause (5), from time to time thereafter), the Debtors shall transfer, assign, and deliver to the Liquidation Trustee for the benefit of the Liquidation Trust Beneficiaries (1) all of the Debtors' respective rights, title, and interests in and to the Liquidation Trust Claims free and clear of any and all Liens, Claims, encumbrances, or interests of any kind in such property of any other Person or entity, other than Liens or encumbrances arising under the Bankruptcy Code or other applicable law; (2) all of the Debtors' respective rights, title, and interest in the Debtors' Privileges associated with the Liquidation Trust Claims; (3) all of Reorganized ASARCO's rights, title, and interest in and to the Plan

Sponsor Promissory Note and the Security Documents; (4) the Liquidation Trust Expense Fund; and (5) such other assets as deemed appropriate by Reorganized ASARCO in accordance with this Plan. In addition, as of the Effective Date, the Liquidation Trustee, in its capacity as the Liquidation Trustee on behalf of the Liquidation Trust Beneficiaries, shall assume and agree to pay, perform, and discharge the obligations of Reorganized ASARCO under the Plan Sponsor Promissory Note and Security Documents. As soon as practicable after the Effective Date, the Reorganized Debtors shall transfer to the Liquidation Trustee for the benefit of the Liquidation Trust Beneficiaries all documents in the Debtors' possession, custody, or control in connection with the assets transferred to the Liquidation Trust. On and after the Effective Date, the Liquidation Trustee shall be a representative of the Estates under section 1123(b)(3) of the Bankruptcy Code with respect to the assets transferred to the Liquidation Trust, including the Liquidation Trust Claims and the Debtors' Privileges associated therewith. The Liquidation Trustee shall be granted the rights and powers of a debtor in possession under section 1107 of the Bankruptcy Code, including, without limitation, the duty to prosecute the Liquidation Trust Claims and distribute the proceeds of such claims, and such other rights and powers as set forth in the Liquidation Trust Agreement.

(f) *The Liquidation Trust*.

The Liquidation Trust Agreement, substantially in the form of **Exhibit 4** to this Plan, contains provisions customary to trust agreements utilized in comparable circumstances. The Debtors, the Liquidation Trustee, the Liquidation Trust Beneficiaries, and the Delaware Trustee shall execute any document or other instrument as necessary to cause all of the Debtors' respective rights, title, and interests in and to the assets described in Article 6.1 (e) above to be transferred to the Liquidation Trust.

The Liquidation Trustee shall have full authority (subject, in certain instances, to approval of the Liquidation Trust Board) to take any steps necessary to administer both the Liquidation Trust Claims and the Plan Sponsor Promissory Note, including, without limitation, the duty and obligation to liquidate the Liquidation Trust Claims. Both Reorganized ASARCO and the Liquidation Trustee have the right to prosecute objections to any Proof of Claim filed by a defendant in any of the Liquidation Trust Claims, including, without limitation, any objections to Claims under sections 502 and 510 of the Bankruptcy Code.

All costs and expenses associated with the administration of the Liquidation Trust shall be the responsibility of and paid by the Liquidation Trust. Notwithstanding the foregoing, each of Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall cooperate with the Liquidation Trustee in pursuing the Liquidation Trust Claims and shall provide reasonable access to their respective personnel and books and records relating to the Liquidation Trust Claims to representatives of the Liquidation Trust for the purpose of enabling the Liquidation Trustee to perform the Liquidation Trustee's tasks under the Liquidation Trust Agreement and this Plan; *provided, however*, that the Plan Sponsor's cooperation in that regard shall be subject to the terms and conditions of the Transition Services Agreement or the New Plan Sponsor PSA, as applicable, and any requests to obtain access to the Plan Sponsor's personnel or books and records shall be made through Reorganized ASARCO or its representatives.

The Liquidation Trustee may retain such law firms, accounting firms, experts, advisors, consultants, investigators, appraisers, agents, employees, or other professionals and third parties as the Liquidation Trustee and the Liquidation Trust Board may deem necessary or appropriate, and at the sole expense of the Liquidation Trust, to aid in the performance of the Liquidation Trustee's responsibilities pursuant to the terms of this Plan including, without limitation, the liquidation and distribution of the assets of the Liquidation Trust.

In the event that one or more of the Debtors obtains approval, pursuant to Bankruptcy Rule 9019, of a settlement prior to the Effective Date of a cause of action that would have been transferred to the Liquidation Trust on the Effective Date, the proceeds of the settlement shall be distributed to the Liquidation Trust Beneficiaries in the same manner as the Liquidation Trust Interests. In the event of such a settlement, the Debtors that are parties to the settlement shall hold the proceeds in escrow for distribution on the Effective Date.

Except as otherwise provided herein, the Liquidation Trust shall be deemed a "successor to the debtor" for purposes of sections 1123(b)(3) and 1145 of the Bankruptcy Code and not necessarily for any other purpose.

(g) *Tax Matters*.

Solely for tax purposes, the Liquidation Trust Tax Owners shall be treated as grantors and owners of the Liquidation Trust pursuant to section 671 *et seq*. of the Internal Revenue Code and the Treasury Regulations promulgated thereunder and any similar provision of state or local law. For federal income tax purposes, the Debtors intend that all parties (including, without limitation, the Liquidation Trustee, the Liquidation Trust Tax Owners, and the transferors, for tax purposes, of any assets transferred to the Liquidation Trust) shall take the position, subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary, that the transfer of assets to the Liquidation Trust is a deemed transfer to the Liquidation Trust Tax Owners (as of the Initial Distribution Date), followed by a deemed transfer by such Liquidation Trust Tax Owners to the Liquidation Trust, and all income and gain of the Liquidation Trust which is earned after such deemed transfer shall be taxed to the Liquidation Trust Tax Owners on a current basis. In addition, the investment powers of the Liquidation Trustee shall be strictly limited, as provided in the Liquidation Trust Agreement.

The fair market value of the portion of the Liquidation Trust assets that is treated for federal income tax purposes as having been transferred to each Liquidation Trust Tax Owner as described in the preceding paragraph, and the fair market value of the portion of the Liquidation Trust assets that is treated for federal income tax purposes as having been transferred to any Liquidation Trust Tax Owner as a result of the allowance or disallowance of a Disputed Claim, shall be determined by the Liquidation Trustee, and all parties (including, without limitation, the Liquidation Trustee, the Liquidation Trust Tax Owners, and the transferors, for tax purposes, of any assets transferred to the Liquidation Trust) shall utilize such fair market value determined by the Liquidation Trustee for all federal income tax purposes.

The Liquidation Trustee shall be responsible for filing all federal, state, and local tax returns for the Liquidation Trust and paying any taxes imposed on the Liquidation Trust. The Liquidation Trustee shall comply with all withholding and reporting requirements imposed

by any federal, state, local, or foreign taxing authority, and all distributions made by the Liquidation Trustee shall be subject to any such withholding and reporting requirements. Any amount so withheld from a distribution to a Liquidation Trust Beneficiary (or its designee) shall be treated as having been paid to, and received by, such Liquidation Trust Beneficiary for purposes of this Plan and the Plan Documents.

Any items of income, deduction, credit, or loss of the Liquidation Trust shall be allocated by the Liquidation Trustee for federal income tax purposes among current or former Liquidation Trust Tax Owners, such allocation shall be binding on all parties for all federal, state, local, and foreign income tax purposes, and such current or former Liquidation Trust Tax Owners shall be responsible for the payment of any federal, state, local, and foreign income tax due on the income and gain so allocated to them.

See Section 21 of the Disclosure Statement, "Certain Federal Income Tax Consequences of the Plan," for further information.

(h) *Liquidation Trust Interests*.

(1) Issuance of Liquidation Trust Interests.

On the Initial Distribution Date, Liquidation Trust Interests shall be issued to the Other Unsecured Claimants, the Governmental Environmental Claimants, and the Asbestos Trust based on (A) the Class 3 Claimant's Ratable Portion and (B) the Asbestos Ratable Portion. The Liquidation Trust Interests that would have been issued to the holders of Class 3 Disputed Claims if such Disputed Claims had been Allowed Claims as of the Effective Date shall be issued to, and held by, the Plan Administrator pending resolution of such Disputed Claims. The amount of Litigation Trust Interests to be issued to the Plan Administrator on account of Class 3 Disputed Claims shall be determined based on the lesser of (A) the asserted amount of the Disputed Claims in the applicable Proofs of Claim; (B) the amount, if any, estimated by the Bankruptcy Court pursuant to (i) section 502(c) of the Bankruptcy Code or (ii) this Plan if, after the Effective Date, a motion is filed by the Plan Administrator to estimate such Claim; or (C) the amount otherwise agreed to by the Debtors (or the Plan Administrator, if after the Effective Date) and the holders of such Disputed Claims. If a Class 3 Claim that remains a Disputed Claim as of the Effective Date is thereafter Allowed in whole or in part, the Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) distribute to the holder of such Claim the Liquidation Trust Interests that such holder would have received on account of such Claim if such Claim had been an Allowed Claim on the Effective Date to the extent thereafter Allowed. If a Class 3 Disputed Claim is disallowed in whole or in part, the Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) transfer the Litigation Trust Interests held in respect of such Disallowed Claim to the Liquidation Trustee for cancellation and any distributions received from the Liquidation Trust on account of such Disallowed Claim shall be returned to the Liquidation Trustee for distribution to the other Liquidation Trust Beneficiaries.

Liquidation Trust Interests will be divided into three classes: Class A Liquidation Trust Interests, Class B Liquidation Trust Interests, and Class C Liquidation Trust Interests. All Liquidation Trust Interests issued to Other Unsecured Claimants shall be designated "Class A Liquidation Trust Interests," all Liquidation Trust Interests issued to Governmental Environmental Claimants shall be designated "Class B Liquidation Trust Interests," and all Liquidation Trust Interests issued to the Asbestos Trust shall be designated "Class C Liquidation Trust Interests." The designation of Liquidation Trust Interests as Class A, Class B, or Class C is solely for purposes of appointing members of the Liquidation Trust Board as described above. Distributions of Liquidation Trust Proceeds or other property of the Liquidation Trust shall be made to holders of Liquidation Trust Interests on a pro rata basis, as more fully described below.

The Liquidation Trust Beneficiaries may convey, assign, sell, or otherwise transfer a Liquidation Trust Interest subject to the limitations contained in the Liquidation Trust Agreement; provided that the Debtors (prior to the Effective Date) or the Liquidation Trustee after consultation with the Liquidation Trust Board (after the Effective Date) may at any time cause the Liquidation Trust Interests to be non-transferable to achieve desired treatment under tax or securities laws or to the extent the Debtors (prior to the Effective Date) or the Liquidation Trustee after consultation with the Liquidation Trust Board (after the Effective Date) determines such restraint on transferability to be in the best interests of the Liquidation Trust.

(2) Interests Beneficial Only.

The ownership of a Liquidation Trust Interest shall not entitle any Liquidation Trust Beneficiary to (A) any title in or to the assets of the Liquidation Trust (which title shall be vested in the Liquidation Trustee) or to any right to call for a partition or division of the assets of the Liquidation Trust or to require an accounting; or (B) any voting rights with respect to the administration of the Liquidation Trust (other than the right to appoint members of the Liquidation Trust Board) or the actions of the Liquidation Trustee in connection therewith.

(3) Maintenance of Liquidation Trust Register.

The Liquidation Trustee shall appoint a Liquidation Trust Registrar, which may be the Liquidation Trustee, for the purpose of recording ownership of the Liquidation Trust Interests. The Liquidation Trust Register shall contain the names, addresses for payment and notice, and class and number of Liquidation Trust Interests of each of the Liquidation Trust Beneficiaries. The Liquidation Trust Registrar, if other than the Liquidation Trustee, may be such other institution acceptable to the Liquidation Trustee and shall be entitled to receive reasonable compensation from the Liquidation Trust as an expense of the Liquidation Trust.

(4) Evidence of Liquidation Trust Interests.

The Liquidation Trustee shall have full power, authority, and discretion to determine whether ownership of any Liquidation Trust Interest shall be represented by

physical certificates, by book entries in lieu of physical certificates, or in any other form or manner. Regardless of such determination, the record holders of the Liquidation Trust Interests shall be recorded and set forth in the Liquidation Trust Register.

(5) Securities Laws Matters.

To the extent the Liquidation Trust Interests are deemed to be "securities," the issuance of Liquidation Trust Interests under this Plan are exempt, pursuant to section 1145 of the Bankruptcy Code, from registration under the Securities Act of 1933, as amended, and any applicable state and local laws requiring registration of securities. If the Liquidation Trustee determines, with the advice of counsel, that the Liquidation Trust is required to comply with registration and reporting requirements of the Exchange Act, then the Liquidation Trustee shall take any and all actions deemed necessary or appropriate by the Liquidation Trustee to comply with such registration and reporting requirements, if any, and to file periodic reports with the SEC. Notwithstanding the foregoing procedure, nothing in this Plan shall be deemed to preclude the Liquidation Trustee from amending the Liquidation Trust Agreement to make such changes as deemed necessary or appropriate by the Liquidation Trustee, with the advice of counsel and after consultation with the Liquidation Trust Board, to ensure that the Liquidation Trust is not subject to registration or reporting requirements of the Exchange Act.

The Debtors anticipate that the Liquidation Trust may, under certain circumstances, be required to register under the Exchange Act, and accordingly be required to file with the SEC and send to the Liquidation Trust Beneficiaries certain periodic reports and other information pursuant to the Exchange Act, including Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, and Current Reports on Form 8-K. The cost of the preparation, filing, and delivery of any such reports would be an expense of the Liquidation Trust.

Exemptions may be sought from the SEC from all or some of the reporting requirements that may be applicable to the Liquidation Trust pursuant to the Exchange Act, if it is determined that compliance with such requirements would be burdensome on the Liquidation Trust. The Debtors have not yet made any determinations regarding whether any such exemptions will be sought, and the SEC has not yet made any determinations regarding such matters. There is no assurance that any such exemptions, if deemed necessary and applied for, will be granted.

The Liquidation Trust Interests may be freely transferred by most recipients following initial issuance, subject to certain limitations set forth in the Liquidation Trust Agreement, unless the holder is an "underwriter" with respect to such Liquidation Trust Interests, as that term is defined in section 1145(b) of the Bankruptcy Code. Section 1145(b) of the Bankruptcy Code defines "underwriter" for purposes of the Securities Act as one who (A) purchases a claim or interest with a view to distribution of any security to be received in exchange for the claim; (B) offers to sell securities issued under a plan for the holders of such securities; (C) offers to buy securities issued under a plan from persons receiving such securities, if the offer to buy is made with a view to distribution of such securities; or (D) is a controlling person of the issuer of the securities.

Entities who believe they may be "underwriters" under the definition contained in section 1145 of the Bankruptcy Code summarized above are advised to consult their own counsel with respect to the availability of the resale exemption provided by section 1145.

(i) *Distributions of Proceeds and Other Property*.

The Liquidation Trustee shall apply all Liquidation Trust Proceeds, any proceeds therefrom, and any other Cash of the Liquidation Trust (other than the Liquidation Trust Expense Fund) in the following order:

(1) first, to pay all costs and expenses of the Liquidation Trust to the extent not paid by or from the Liquidation Trust Expense Fund, including, without limitation, compensation payable to the Liquidation Trustee, to satisfy other liabilities incurred or assumed by the Liquidation Trust (or to which the assets are otherwise subject) in accordance with this Plan or the Liquidation Trust Agreement, to hold such amounts in reserve as the Liquidation Trustee deems reasonably necessary to meet future expenses and contingent liabilities, to maintain the value of the assets of the Liquidation Trust during liquidation (including the Liquidation Trust Expense Fund), and to pay the Plan Administrator such amounts as the Plan Administrator designates from time to time for the purpose of paying, or indemnifying Reorganized ASARCO for, any taxes incurred or expected to be incurred by Reorganized ASARCO in connection with the Liquidation Trust as a result of the allocation of tax items by the Liquidation Trustee or the allowance or disallowance of Disputed Claims; and

(2) second, to pay any remaining amounts to the Liquidation Trust Beneficiaries (including to the Plan Administrator for deposit into the Disputed Claims Reserve on account of the Claims of any Claimant that would be a Liquidation Trust Beneficiary absent such objection) pro rata based on their Liquidation Trust Interests. If the Plan Administrator holds proceeds of the Liquidation Trust in the Disputed Claims Reserve on account of a Disputed Claim that is finally determined adversely to such Claimant, in whole or in part, the Plan Administrator shall return to the Liquidation Trust the disallowed portion that the Plan Administrator received from the Liquidation Trust on account of such Claim and shall pay any Allowed portion to such Claimant.

If, upon termination of the Liquidation Trust, the Liquidation Trust Expense Fund has funds remaining after the payment of all of the Liquidation Trust's expenses, such remaining funds shall be paid to the Liquidation Trust Beneficiaries pro rata based on their Liquidation Trust Interests.

(j) *Termination of the Liquidation Trust*.

The Liquidation Trust shall terminate on the earlier of: (1) 30 days after the distribution of all of the assets of the Liquidation Trust in accordance with the terms of the Liquidation Trust Agreement and this Plan; or (2) the tenth anniversary of the Effective Date; *provided, however,* that, on or prior to a date less than six months (but not less than three months) prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Liquidation Trust for a finite period if, based on the facts and

circumstances, the Bankruptcy Court finds that such extension is necessary to the liquidating purpose of the Liquidation Trust. The Bankruptcy Court may approve multiple extensions of the term of the Liquidation Trust; provided that (1) any such extension is so approved on or prior to a date less than six months (but not less than three months) prior to termination of the immediately preceding extended term; and (2) the Liquidation Trustee receives an opinion of counsel or a favorable ruling from the IRS that any further extension would not adversely affect the status of the Liquidation Trust as a grantor trust for federal income tax purposes.

The Liquidation Trustee shall not unduly prolong the duration of the Liquidation Trust and shall at all times endeavor to resolve, settle, or otherwise dispose of all of the Liquidation Trust Claims and to effect the distribution of the assets of the Liquidation Trust, including the Plan Sponsor Promissory Note, to the holders of the Liquidation Trust Interests in accordance with the terms of this Plan as soon as practicable.

6.2 The SCC Litigation Trust.

(a) *Creation of the SCC Litigation Trust.*

On the Effective Date, the SCC Litigation Trust shall be created as provided in the SCC Litigation Trust Agreement. The SCC Litigation Trust shall be a Delaware trust organized under the Delaware Statutory Trust Act. Prior to the Effective Date, the SCC Litigation Trust Agreement may be amended to include new or different terms in order to comply with the requirements of the Bankruptcy Code, including, without limitation, section 1129(a) and (b) of the Bankruptcy Code.

Notwithstanding the foregoing, the Debtors reserve the right to seek to auction interests in the SCC Litigation Trust Claims in anticipation of Confirmation. If the Debtors determine that pursuit of such an auction is in the best interest of their Estates, they will file an appropriate motion with the Bankruptcy Court to approve the auction procedures. If, as a result of any such auction, the Debtors' interests in the SCC Litigation Trust Claims are to be transferred in their entirety, the auction proceeds shall be distributed as Plan Consideration and the SCC Litigation Trust will not be created (and no SCC Litigation Trust Interests will be distributed under this Plan). If the Debtors decide, as a result of the auction, to transfer only a portion of their interests in the SCC Litigation Trust Claims, the SCC Litigation Trust will be created and the remaining SCC Litigation Trust Interests shall be issued in accordance herewith.

In the event of a transfer of a portion of the SCC Litigation Trust Claims to the SCC Litigation Trust pursuant to the auction, the proposed terms of the SCC Litigation Trust and the SCC Litigation Trust Interests set forth in the SCC Litigation Trust Agreement will be subject to change based on negotiation with the SCC Purchasers and consultation with the ASARCO Committee, the DOJ, the Asbestos Claimants' Committee, and the FCR.

(b) *Appointment of Trustees.*

The Plan Administrator shall serve as the SCC Litigation Trustee. Upon approval in the Confirmation Order, the SCC Litigation Trustee shall be appointed. The SCC Litigation Trustee shall report to the SCC Litigation Trust Board.

The SCC Litigation Trustee shall have and perform all of the rights, powers, and duties set forth in the SCC Litigation Trust Agreement.

The SCC Litigation Trust Agreement provides for the appointment of a Delaware Trustee and has other appropriate provisions relating to a Delaware Trustee. ASARCO shall designate the Person who will initially serve as Delaware Trustee of the SCC Litigation Trust.

The duties, responsibilities, rights, and obligations of the SCC Litigation Trustee and the Delaware Trustee for the SCC Litigation Trust shall terminate in accordance with the terms of the SCC Litigation Trust Agreement.

(c) *SCC Litigation Trust Board*.

The SCC Litigation Trust Board shall consist of three members initially selected as follows: (1) one selected by the ASARCO Committee; (2) one selected by the DOJ (in consultation with the states that have Allowed environmental Claims); and (3) one selected by the Asbestos Claimants' Committee and the FCR.

Successors to the members of the SCC Litigation Trust Board shall be selected as follows: (1) in the case of the member originally selected by the ASARCO Committee, by the then-current holders of a majority of the Class A SCC Litigation Trust Interests; (2) in the case of the member originally selected by the DOJ, by the then-current holders of a majority of the Class B SCC Litigation Trust Interests; and (3) in the case of the member originally selected by the Asbestos Claimants' Committee and the FCR, by the then-current holders of a majority of the Class C SCC Litigation Trust Interests; *provided, however*, that any holder of Class A SCC Litigation Trust Interests, Class B SCC Litigation Trust Interests, or Class C SCC Litigation Trust Interests who is a party adverse to ASARCO in any SCC Litigation Trust Claims, or is an Affiliate of any party adverse to ASARCO in any SCC Litigation Trust Claims, shall not be entitled to the foregoing selection rights. If no holder of SCC Litigation Trust Interests in a particular class is eligible to select a member of the SCC Litigation Trust Board, the board shall proceed without a member selected by that class.

Notwithstanding this section (c), the Debtors may, prior to the Effective Date, amend the SCC Litigation Trust Agreement, in consultation with the Committees, the FCR, and the DOJ, to do any of the following: increase or decrease the number of members of the SCC Litigation Trust Board (including, without limitation, to provide for a member selected by the SCC Purchasers), change the method by which such members are designated, or change the number of such members whose approval should be required for actions or omissions to be taken by the SCC Litigation Trustee in respect of the SCC Litigation Trust Claims.

(d) *Purpose of the SCC Litigation Trust.*

The SCC Litigation Trust shall be established as a statutory trust for the purpose of pursuing the SCC Litigation Trust Claims, liquidating all assets of the SCC Litigation Trust for the benefit of the SCC Litigation Trust Beneficiaries, receiving all SCC Litigation Trust Claim recoveries, and distributing the resulting SCC Litigation Trust Proceeds and other Cash of the SCC Litigation Trust to the SCC Litigation Trust Beneficiaries after payment of all expenses of the SCC Litigation Trust. The primary purpose of the SCC Litigation Trust is to liquidate its

assets, and the SCC Litigation Trust shall have no objective or authority to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the SCC Litigation Trust.

(e) *Transfer of SCC Litigation Trust Claims to the SCC Litigation Trustee.*

On the Effective Date, the Debtors shall transfer, assign, and deliver to the SCC Litigation Trustee for the benefit of the SCC Litigation Trust Beneficiaries (1) all of the Debtors' respective rights, title, and interests in the SCC Litigation Trust Claims free and clear of any and all Liens, Claims, encumbrances, or interests of any kind in such property of any Person or Entity, other than Liens or encumbrances arising under the Bankruptcy Code or other applicable law; (2) all of the Debtors' respective rights, title, and interest in the Debtors' Privileges associated with the SCC Litigation Trust Claims; and (3) the SCC Litigation Trust Expense Fund. As soon as practicable after the Effective Date, the Debtors shall transfer to the SCC Litigation Trustee for the benefit of the SCC Litigation Trust Beneficiaries all documents (or copies thereof) in the Debtors' possession, custody, or control in connection with the SCC Litigation Trust Claims. On and after the Effective Date, the SCC Litigation Trustee shall be a representative of the Estates under section 1123(b)(3) of the Bankruptcy Code with respect to the SCC Litigation Trust Claims and the Debtors' Privileges associated therewith. The SCC Litigation Trustee shall be granted the rights and powers of a debtor in possession under section 1107 of the Bankruptcy Code, including, without limitation, the duty to prosecute the SCC Litigation Trust Claims and distribute the proceeds of such claims, and such other rights and powers as set forth in the SCC Litigation Trust Agreement.

(f) *The SCC Litigation Trust*.

The SCC Litigation Trust Agreement, substantially in the form of **Exhibit 5** to this Plan, contains provisions customary to trust agreements utilized in comparable circumstances. The Debtors, the SCC Litigation Trustee, the SCC Litigation Trust Beneficiaries, and the Delaware Trustee shall execute any document or other instrument as necessary to cause all of the Debtors' respective rights, title, and interests in and to the SCC Litigation Trust Claims to be transferred to the SCC Litigation Trust.

The SCC Litigation Trustee shall have full authority (subject, in certain instances, to approval by the SCC Litigation Trust Board) to take any steps necessary to administer the SCC Litigation Trust Claims, including, without limitation, the duty and obligation to liquidate the SCC Litigation Trust Claims.

All costs and expenses associated with the administration of the SCC Litigation Trust shall be the responsibility of and paid by the SCC Litigation Trust. Notwithstanding the foregoing, each of Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall cooperate with the SCC Litigation Trustee in pursuing the SCC Litigation Trust Claims and shall provide reasonable access to their respective personnel and books and records relating to the SCC Litigation Trust Claims to representatives of the SCC Litigation Trust for the purpose of enabling the SCC Litigation Trustee to perform the SCC Litigation Trustee's tasks under the SCC Litigation Trust Agreement and this Plan; *provided, however*, that the Plan Sponsor's cooperation in that regard shall be subject to the terms and conditions of the Transition Services

Agreement or the New Plan Sponsor PSA, as applicable, and any requests to obtain access to the Plan Sponsor's personnel or books and records shall be made through Reorganized ASARCO or its representatives.

The SCC Litigation Trustee may retain such law firms, accounting firms, experts, advisors, consultants, investigators, appraisers, agents, employees, or other professionals and third parties as the SCC Litigation Trustee and the SCC Litigation Trust Board may deem necessary or appropriate, and at the sole expense of the SCC Litigation Trust, to aid in the performance of the SCC Litigation Trustee's responsibilities pursuant to the terms of this Plan, including, without limitation, the liquidation and distribution of SCC Litigation Trust Claims.

In the event that ASARCO obtains approval, pursuant to Bankruptcy Rule 9019, of a settlement of any of the SCC Litigation Trust Claims prior to the Effective Date, the proceeds of the settlement shall be distributed to the SCC Litigation Trust Beneficiaries in the same manner as the SCC Litigation Trust Interests. In the event of such a settlement ASARCO shall hold the proceeds in escrow for distribution on the Effective Date.

Except as otherwise provided herein, the SCC Litigation Trust shall be deemed a "successor to the debtor" for purposes of sections 1123(b)(3) and 1145 of the Bankruptcy Code and not necessarily for any other purpose.

(g) *Tax Matters*.

Solely for tax purposes, the SCC Litigation Trust Tax Owners shall be treated as grantors and owners of the SCC Litigation Trust pursuant to section 671 *et seq*. of the Internal Revenue Code and the Treasury Regulations promulgated thereunder and any similar provision of state or local law. For federal income tax purposes, the Debtors intend that all parties (including, without limitation, the SCC Litigation Trustee, the SCC Litigation Trust Tax Owners, and the transferors, for tax purposes, of any assets transferred to the SCC Litigation Trust) shall take the position, subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary, that the transfer of assets to the SCC Litigation Trust is a deemed transfer to the SCC Litigation Trust Tax Owners (as of the Initial Distribution Date), followed by a deemed transfer by such SCC Litigation Trust Tax Owners to the SCC Litigation Trust, and all income and gain of the SCC Litigation Trust which is earned after such deemed transfer shall be taxed to the SCC Litigation Trust Tax Owners on a current basis. In addition, the investment powers of the SCC Litigation Trustee shall be strictly limited, as provided in the SCC Litigation Trust Agreement.

The fair market value of the portion of the SCC Litigation Trust assets that is treated for federal income tax purposes as having been transferred to each SCC Litigation Trust Tax Owner as described in the preceding paragraph, and the fair market value of the portion of the SCC Litigation Trust assets that is treated for federal income tax purposes as having been transferred to any SCC Litigation Trust Tax Owner as a result the allowance or disallowance of a Disputed Claim, shall be determined by the SCC Litigation Trustee, and all parties (including, without limitation, the SCC Litigation Trustee, the SCC Litigation Trust Tax Owners, and the transferors, for tax purposes, of any assets transferred to the SCC Litigation Trust) shall utilize

such fair market value determined by the SCC Litigation Trustee for all federal income tax purposes.

The SCC Litigation Trustee shall be responsible for filing all federal, state, and local tax returns for the SCC Litigation Trust and paying any taxes imposed on the SCC Litigation Trust. The SCC Litigation Trustee shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all distributions made by the SCC Litigation Trustee shall be subject to any such withholding and reporting requirements. Any amount so withheld from a distribution to an SCC Litigation Trust Beneficiary (or its designee) shall be treated as having been paid to, and received by, such SCC Litigation Trust Beneficiary for purposes of this Plan and the Plan Documents.

Any items of income, deduction, credit, or loss of the SCC Litigation Trust shall be allocated by the SCC Litigation Trustee for federal income tax purposes among current or former SCC Litigation Trust Tax Owners, such allocation shall be binding on all parties for all federal, state, local, and foreign income tax purposes, and such current or former SCC Litigation Trust Tax Owners shall be responsible for the payment of any federal, state, local, and foreign income tax due on the income and gain so allocated to them.

See Section 21 of the Disclosure Statement, "Certain Federal Income Tax Consequences of the Plan," for further information.

(h) *SCC Litigation Trust Interests.*

(1) Issuance of SCC Litigation Trust Interests.

On the Initial Distribution Date, SCC Litigation Trust Interests shall be issued to the SCC Purchasers (if any), the Other Unsecured Claimants, the Governmental Environmental Claimants, and the Asbestos Trust as follows:

An amount of SCC Litigation Trust Interests equal to the SCC Purchaser Percentage shall be issued to the SCC Purchasers pro rata based on their respective SCC Litigation Purchase Price paid for such interests. All SCC Litigation Trust Interests issued to SCC Purchasers shall be designated "Class D SCC Litigation Trust Interests."

All remaining SCC Litigation Trust Interests shall be issued to Other Unsecured Claimants, Governmental Environmental Claimants, and the Asbestos Trust based on (A) the Class 3 Claimant's Ratable Portion and (B) the Asbestos Ratable Portion. All SCC Litigation Trust Interests issued to Other Unsecured Claimants shall be designated "Class A SCC Litigation Trust Interests," all SCC Litigation Trust Interests issued to the Governmental Environmental Claimants shall be designated "Class B SCC Litigation Trust Interests," and all SCC Litigation Trust Interests issued to the Asbestos Trust shall be designated "Class C SCC Litigation Trust Interests."

The SCC Litigation Trust Interests that would have been issued to the holders of Class 3 Disputed Claims if such Disputed Claims had been Allowed Claims as of the Effective Date shall be issued to, and held by, the Plan Administrator pending resolution of such Disputed Claims. The amount of SCC Litigation Trust Interests to be

issued to the Plan Administrator on account of Class 3 Disputed Claims shall be determined based on the lesser of (A) the asserted amount of the Disputed Claims in the applicable Proofs of Claim; (B) the amount, if any, estimated by the Bankruptcy Court pursuant to (i) section 502(c) of the Bankruptcy Code or (ii) this Plan if, after the Effective Date, a motion is filed by the Plan Administrator to estimate such Claim; or (C) the amount otherwise agreed to by the Debtors (or the Plan Administrator, if after the Effective Date) and the holders of such Disputed Claims. If a Class 3 Claim that remains a Disputed Claim as of the Effective Date is thereafter Allowed in whole or in part, the Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) distribute to the holder of such Claim the SCC Litigation Trust Interests that such holder would have received on account of such Claim if such Claim had been an Allowed Claim on the Effective Date to the extent thereafter Allowed. If a Class 3 Disputed Claim is disallowed in whole or in part, the Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) transfer the SCC Litigation Trust Interests held in respect of such Disallowed Claim to the SCC Litigation Trustee for cancellation and any distributions received from the SCC Litigation Trust on account of such Disallowed Claim shall be returned to the SCC Litigation Trustee for distribution to the other SCC Litigation Trust Beneficiaries.

The SCC Litigation Trust Beneficiaries may convey, assign, sell, or otherwise transfer an SCC Litigation Trust Interest subject to the limitations contained in the SCC Litigation Trust Agreement; provided that, subject to the Asbestos Trust's rights under the Put Option (which rights may not be infringed or otherwise affected by the Debtors or the SCC Litigation Trustee), the Debtors (prior to the Effective Date) or the SCC Litigation Trustee after consultation with the SCC Litigation Trust Board (after the Effective Date) may at any time cause the SCC Litigation Trust Interests (other than those interests subject to the Put Option) to be non-transferable to achieve desired treatment under tax or securities laws or to the extent the Debtors (prior to the Effective Date) or the SCC Litigation Trustee after consultation with the SCC Litigation Trust Board (after the Effective Date) determines such restraint on transferability to be in the best interests of the SCC Litigation Trust.

(2) Interests Beneficial Only.

The ownership of an SCC Litigation Trust Interest shall not entitle any SCC Litigation Trust Beneficiary to (A) any title in or to the assets of the SCC Litigation Trust as such (which title shall be vested in the SCC Litigation Trustee) or to any right to call for a partition or division of the assets of the SCC Litigation Trust or to require an accounting; or (B) any voting rights with respect to the administration of the SCC Litigation Trust (other than the right to appoint members of the SCC Litigation Trust Board) or the actions of the SCC Litigation Trustee in connection therewith.

(3) Maintenance of SCC Litigation Trust Register.

The SCC Litigation Trustee shall appoint an SCC Litigation Trust Registrar, which may be the SCC Litigation Trustee, for the purpose of recording ownership of the SCC Litigation Trust Interests. The SCC Litigation Trust Register shall

contain the names, addresses for payment and notice, and class and number of SCC Litigation Trust Interests of each of the SCC Litigation Trust Beneficiaries. The SCC Litigation Trust Registrar, if other than the SCC Litigation Trustee, may be such other institution acceptable to the SCC Litigation Trustee and shall be entitled to receive reasonable compensation from the SCC Litigation Trust as an expense of the SCC Litigation Trust.

(4) Evidence of SCC Litigation Trust Interests.

The SCC Litigation Trustee shall have full power, authority, and discretion to determine whether ownership of any SCC Litigation Trust Interest shall be represented by physical certificates, by book entries in lieu of physical certificates, or in any other form or manner. Regardless of such determination, the record holders of the SCC Litigation Trust Interests shall be recorded and set forth in the SCC Litigation Trust Register.

(5) Securities Laws Matters.

To the extent the SCC Litigation Trust Interests are deemed to be "securities," the issuance of SCC Litigation Trust Interests under this Plan are exempt, pursuant to section 1145 of the Bankruptcy Code, from registration under the Securities Act of 1933, as amended, and any applicable state and local laws requiring registration of securities. If the SCC Litigation Trustee determines, with the advice of counsel and after consultation with the SCC Litigation Trust Board, that the SCC Litigation Trust is required to comply with registration and reporting requirements of the Exchange Act, then the SCC Litigation Trustee shall take any and all actions deemed necessary or appropriate by the SCC Litigation Trustee to comply with such registration and reporting requirements, if any, and to file periodic reports with the SEC. Notwithstanding the foregoing procedure, nothing in this Plan shall be deemed to preclude the SCC Litigation Trustee from amending the SCC Litigation Trust Agreement to make such changes as deemed necessary or appropriate by the SCC Litigation Trustee, with the advice of counsel, to ensure that the SCC Litigation Trust is not subject to registration or reporting requirements of the Exchange Act.

The Debtors anticipate that the SCC Litigation Trust may, under certain circumstances, be required to register under the Exchange Act, and accordingly be required to file with the SEC and send to the SCC Litigation Trust Beneficiaries certain periodic reports and other information pursuant to the Exchange Act, including Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, and Current Reports on Form 8-K. The cost of the preparation, filing, and delivery of any such reports would be an expense of the SCC Litigation Trust.

Exemptions may be sought from the SEC from all or some of the reporting requirements that may be applicable to the SCC Litigation Trust pursuant to the Exchange Act if it is determined that compliance with such requirements would be burdensome on the SCC Litigation Trust. The Debtors have not yet made any determinations regarding whether any such exemptions will be sought, and the SEC has

not yet made any determinations regarding such matters. There is no assurance that any such exemptions, if deemed necessary and applied for, will be granted.

The SCC Litigation Trust Interests may be freely transferred by most recipients following initial issuance, subject to certain limitations set forth in the SCC Litigation Trust Agreement, unless the holder is an "underwriter" with respect to such SCC Litigation Trust Interests, as that term is defined in section 1145(b) of the Bankruptcy Code. Section 1145(b) of the Bankruptcy Code defines "underwriter" for purposes of the Securities Act as one who (A) purchases a claim or interest with a view to distribution of any security to be received in exchange for the claim; (B) offers to sell securities issued under a plan for the holders of such securities; (C) offers to buy securities issued under a plan from persons receiving such securities, if the offer to buy is made with a view to distribution of such securities; or (D) is a controlling person of the issuer of the securities. Entities who believe they may be "underwriters" under the definition contained in section 1145 of the Bankruptcy Code summarized above are advised to consult their own counsel with respect to the availability of the resale exemption provided by section 1145.

(i) *Distributions of SCC Litigation Proceeds and Other Property*.

The SCC Litigation Trustee shall apply all SCC Litigation Proceeds, any proceeds therefrom, and any other Cash of the SCC Litigation Trust (other than the SCC Litigation Trust Expense Fund) in the following order:

(1) first, to pay all costs and expenses of the SCC Litigation Trust to the extent not paid by or from the SCC Litigation Trust Expense Fund, including, without limitation, compensation payable to the SCC Litigation Trustee, to satisfy other liabilities incurred or assumed by the SCC Litigation Trust (or to which the assets are otherwise subject) in accordance with this Plan or the SCC Litigation Trust Agreement, to hold such amounts in reserve as the SCC Litigation Trustee deems reasonably necessary to meet future expenses and contingent liabilities, to maintain the value of the SCC Litigation Trust Assets (including the SCC Litigation Trust Expense Fund), and to pay the Plan Administrator such amounts as the Plan Administrator designates from time to time for the purpose of paying, or indemnifying Reorganized ASARCO for, any taxes incurred or expected to be incurred by Reorganized ASARCO in connection with the SCC Litigation Trust as a result of the allocation of tax items by the SCC Litigation Trustee or the allowance or disallowance of Disputed Claims; and

(2) second, to pay any remaining amounts to the SCC Litigation Trust Beneficiaries (including to the Plan Administrator for deposit into the Disputed Claims Reserve on account of the Claims of any Claimant that would be an SCC Litigation Trust Beneficiary absent such objection) pro rata based on their SCC Litigation Trust Interests. If the Plan Administrator holds proceeds of the SCC Litigation Trust in the Disputed Claims Reserve on account of a Disputed Claim that is finally determined adversely to such Claimant, in whole or in part, the Plan Administrator shall return to the SCC Litigation Trust the disallowed portion that the Plan Administrator received from the

SCC Litigation Trust on account of such Claim and shall pay any Allowed portion to such Claimant.

If, upon termination of the SCC Litigation Trust, the SCC Litigation Trust Expense Fund has funds remaining after the payment of all of the SCC Litigation Trust's expenses, such remaining funds shall be paid to the SCC Litigation Trust Beneficiaries holding Cass A, Class B, and Class C SCC Litigation Trust Interests (including the Plan Administrator on behalf of the Disputed Claims Reserve) pro rata based on their SCC Litigation Trust Interests.

(j) *Termination of the SCC Litigation Trust*.

The SCC Litigation Trust shall terminate on the earlier of: (1) 30 days after the distribution of all of the assets of the SCC Litigation Trust in accordance with the terms of the SCC Litigation Trust Agreement and this Plan; or (2) the fifth anniversary of the Effective Date; *provided*, *however*, that, on or prior to a date less than six months (but not less than three months) prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the SCC Litigation Trust for a finite period if, based on the facts and circumstances, the Bankruptcy Court finds that such extension is necessary to the liquidating purpose of the SCC Litigation Trust. The Bankruptcy Court may approve multiple extensions of the term of the SCC Litigation Trust; provided that (1) any such extension is so approved on or prior to a date less than six months (but not less than three months) prior to termination of the immediately preceding extended term; and (2) the SCC Litigation Trustee receives an opinion of counsel or a favorable ruling from the IRS that any further extension would not adversely affect the status of the SCC Litigation Trust as a grantor trust for federal income tax purposes.

The SCC Litigation Trustee shall not unduly prolong the duration of the SCC Litigation Trust and shall endeavor to resolve, settle, or otherwise dispose of all of the SCC Litigation Trust Claims and to effect the distribution of the assets of the SCC Litigation Trust to the holders of SCC Litigation Trust Interests in accordance with the terms of the Plan as soon as practicable.

ARTICLE VII

THE ASBESTOS TRUST

7.1 Creation of the Asbestos Trust. On the Effective Date or such earlier date as the Debtors deem appropriate, the Asbestos Trust shall be created as provided in the Asbestos Trust Agreement. The Asbestos Trust shall be a Delaware trust organized under the Delaware Statutory Trust Act.

7.2 Appointment of Asbestos Trustees.

(a) Upon approval in the Confirmation Order, the Asbestos Trustees shall be appointed.

(b) ASARCO (if prior to the Effective Date) or the Asbestos Trustees (if after the Effective Date) shall designate the Person who shall initially serve as the Delaware Trustee for the Asbestos Trust.

(c) The Asbestos Trustees and the Delaware Trustee shall each have and perform all of the rights, powers, and duties set forth in the Asbestos Trust Agreement.

7.3 The FCR. On and after the Effective Date, Judge Robert C. Pate shall serve as the FCR and shall have and exercise the functions, rights, duties, powers, and privileges provided in the Asbestos Trust Documents.

7.4 Asbestos TAC. The initial members of the Asbestos TAC shall be those Persons named in the Confirmation Order. They shall consult with and advise the Asbestos Trustees regarding the administration of the Asbestos Trust and the liquidation and resolution of Unsecured Asbestos Personal Injury Claims in accordance with the provisions of this Plan and the Asbestos Trust Documents.

7.5 Purpose of the Asbestos Trust. The purposes of the Asbestos Trust shall be, among other things, to (a) liquidate, resolve, pay, and satisfy all Unsecured Asbestos Personal Injury Claims and Demands in accordance with this Plan, the Asbestos Trust Agreement, the Asbestos TDP, and the Confirmation Order; (b) receive, preserve, hold, manage, and maximize the Asbestos Trust Assets for use in paying and satisfying Allowed Unsecured Asbestos Personal Injury Claims and Demands in accordance with the terms of the Asbestos Trust Agreement; and (c) take other actions deemed by the Asbestos Trustees to be in the best interest of the holders of the Unsecured Asbestos Personal Injury Claims and Demands, who are the sole beneficiaries of the Asbestos Trust.

7.6 Transfers, Assignments, and Payments to the Asbestos Trust. On the Effective Date, the Debtors shall transfer, assign, and pay, without limitation, to the Asbestos Trust for the benefit of the Asbestos Trust Beneficiaries all of the Debtors' rights, title, and interest in: (a) the Asbestos Trust Assets, as provided in Article 10.6 herein; (b) the Asbestos Personal Injury Claims and Demands and other recoveries, including, without limitation, any extracontractual claims for bad faith, late payments, reimbursement of Asbestos Trust Expenses, or otherwise; (c) the Debtors' Privileges associated with the Asbestos Personal Injury Claims and Demands and other recoveries; (d) pursuing and receiving any and all insurance proceeds for Asbestos Personal Injury Claims and Demands from the Asbestos Insurance Policies; and (e) the Asbestos Insurance Recoveries, together with and subject to any Claim of an Asbestos Insurance Company (1) relating to an Asbestos Insurance Policy or the proceeds of such policy or (2) resulting from the resolution of an Avoidance Action against any Asbestos Insurance Company. Notwithstanding the foregoing, ASARCO reserves the right to retain the Asbestos Insurance Recoveries and pay the net proceeds of such recoveries (after the deduction of the reasonable and necessary unreimbursed costs and expenses associated with obtaining such proceeds) to the Asbestos Trust if, after consultation with the Asbestos Trust, it is determined that such retention better preserves these assets. In addition, Sterlite has agreed to execute and deliver the Put Option to the Asbestos Trustees.

7.7 Asbestos Trust Agreement. The Asbestos Trust Agreement, substantially in the form of **Exhibit 6** to this Plan, contains provisions customary to documents utilized in comparable circumstances. ASARCO, Covington, the Asbestos Subsidiary Debtors, the Asbestos Subsidiary Committee, the Asbestos Claimants' Committee, the Asbestos Trustees, the

Delaware Trustee, the members of the Asbestos TAC, and the FCR shall execute the Asbestos Trust Agreement.

7.8 Control of the Asbestos Insurance Actions and Asbestos Insurance Recoveries. The right to control the Asbestos Insurance Actions and all Asbestos Insurance Recoveries, including negotiations relating thereto and settlements thereof, shall be vested in the Asbestos Trust on and after the Effective Date. Notwithstanding the foregoing, Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall cooperate with the Asbestos Trustees in pursuing the Asbestos Insurance Actions, and shall provide the representatives of the Asbestos Trust with reasonable access to personnel and books and records of Reorganized ASARCO and the Plan Sponsor relating to the Asbestos Insurance Actions, to enable the Asbestos Trustees to perform the Asbestos Trustees' tasks under the Asbestos Trust Agreement and this Plan, as is discussed below in Article 7.13 in regards to Reorganized ASARCO; provided that the Plan Sponsor's cooperation in that regard shall be subject to the terms and conditions of the Transition Services Agreement or the New Plan Sponsor PSA, as applicable, and any requests to obtain access to the Plan Sponsor's personnel or books and records shall be made through Reorganized ASARCO or its representatives.

7.9 Assumption of Liabilities by the Asbestos Trust. Upon the occurrence of the Effective Date, in exchange for funding in accordance with Article 10.6 of this Plan, the Asbestos Trust shall be deemed, without need for further action, to have assumed responsibility and liability for all Unsecured Asbestos Personal Injury Claims and Demands.

7.10 Indemnification and Reimbursement by the Asbestos Trust.

(a) The Asbestos Trust shall indemnify, defend (and, where applicable, pay the defense costs for), and hold harmless each ASARCO Protected Party from any and all liabilities associated with an Asbestos Personal Injury Claim or Demand that a third party seeks to impose upon any ASARCO Protected Party, or that are imposed upon any ASARCO Protected Party.

(b) In the event that the Asbestos Trust makes a payment to any ASARCO Protected Party hereunder, and such ASARCO Protected Party subsequently diminishes the liability on account of which such payment was made, either directly or through a third-party recovery, the applicable ASARCO Protected Party shall promptly repay the Asbestos Trust the amount by which the payment made by the Asbestos Trust exceeds the actual cost of the associated indemnified liability.

(c) In the event the Plan Administrator makes a distribution on account of an Allowed Claim of an Asbestos Insurance Company (1) relating to an Asbestos Insurance Policy or the proceeds of such policy or (2) resulting from the resolution of an Avoidance Action against any Asbestos Insurance Company, the Asbestos Trust shall reimburse the Plan Administrator for the amount of any such distribution within 60 days of receipt of a written request for such reimbursement; *provided, however*, that the Plan Administrator shall consult with the Asbestos Trustees prior to making any such distribution. In the event of a dispute concerning the reimbursement of any distribution made pursuant to this Article 7.10(c), the Bankruptcy Court shall retain jurisdiction to determine such matter.

7.11 Tax Treatment of the Asbestos Trust. The Asbestos Trust shall be treated as a "qualified settlement fund" within the meaning of Treasury Regulation section 1.468B-1, and the Asbestos Trustees shall be the "administrator" of the Asbestos Trust pursuant to Treasury Regulation section 1.468B-2(k)(3). No election shall be made to treat the Asbestos Trust as a grantor trust for U.S. federal income tax purposes. Accordingly, the Asbestos Trust shall be treated as a taxable entity for federal income tax purposes. The Asbestos Trustees shall cause all taxes imposed on the Asbestos Trust to be paid using assets of the Asbestos Trust and shall comply with all tax reporting and withholding requirements imposed under applicable tax laws. Any amount so withheld from a distribution or payment by the Asbestos Trust to a Claimant or other payee shall be treated as having been paid to, and received by, such payee for purposes of this Plan and the Plan Documents.

7.12 Asbestos Trust Expenses. The Asbestos Trust shall pay all Asbestos Trust Expenses (including applicable taxes) from the assets of the Asbestos Trust. Except for the $27.5 million payment on the Effective Date for purposes of Asbestos Trust Expenses, neither the Debtors nor the Reorganized Debtors shall have any obligation to pay or reimburse any Asbestos Trust Expenses. However, nothing shall preclude the Asbestos Trustees from seeking reimbursement of such expenses from any Asbestos Insurance Company.

7.13 Asbestos Books.

(a) *Transfer or Inspection and Copying of Asbestos Books*.

Subject to the conditions set forth herein, the Asbestos Trust, through its duly authorized representatives, shall have the right, upon reasonable prior written notice to Reorganized ASARCO: (1) to have Reorganized ASARCO transfer into the Asbestos Trust's possession all or part of the Asbestos Books in their current condition upon request of the Asbestos Trust and on the condition that the Asbestos Trust shall pay all costs and expenses of the transfer or (2) to inspect and, at the sole expense of the Asbestos Trust, make copies of the Asbestos Books during business hours on any Business Day and as often as may reasonably be desired; provided that, if so requested, the Asbestos Trust shall enter into a confidentiality agreement satisfactory in form and substance to Reorganized ASARCO.

(b) *Costs and Expenses*.

All costs and expenses associated with the storage of and access to the Asbestos Books shall be the responsibility of, and paid by, (1) the Plan Administrator for any Asbestos Books that remain in Reorganized ASARCO's possession or that are transferred to the Plan Sponsor and (2) the Asbestos Trust for any Asbestos Books that are transferred into the Asbestos Trust's possession. All costs and expenses of access to any Asbestos Books that are transferred to the Plan Sponsor shall be paid by the Plan Administrator.

(c) *Access to Asbestos Books and Personnel*.

Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall cooperate with the Asbestos Trust in transferring or providing access to the Asbestos Books in their current condition and shall also provide reasonable access to necessary or appropriate personnel and the Asbestos Books as contemplated herein; provided that the Plan Sponsor's

cooperation in that regard shall be subject to the terms and conditions of the Transition Services Agreement or the New Plan Sponsor PSA, as applicable, and any requests made to the Plan Sponsor regarding the transfer or access to the Asbestos Books or access to the Plan Sponsor's personnel shall be made through Reorganized ASARCO or its representatives. Subject to the conditions set forth herein, the Asbestos Trust, through its duly authorized representatives, shall also have the right, upon reasonable prior written notice, to conduct reasonable interviews of employees and other representatives of Reorganized ASARCO concerning matters reasonably related to the Asbestos Books.

(d) *Disposition of Asbestos Books*.

Reorganized ASARCO shall provide the Asbestos Trust with advance notice of any proposed disposition of any of the Asbestos Books and a reasonable opportunity for the Asbestos Trust to segregate and remove, at the expense of the Asbestos Trust, such Asbestos Books as the Asbestos Trust may select.

(e) *Privileged Documents or Communications*.

If the Asbestos Trust obtains from Reorganized ASARCO or its representatives any documents or communications (whether electronic, written, or oral) to which any Privilege attaches, the Asbestos Trust shall be deemed the Privilege holder for purposes of fulfilling the Asbestos Trust obligations and preserving the Privilege, shall be required to take all reasonable steps to maintain any such Privilege and may not waive any such Privilege without the consent of Reorganized ASARCO, which consent shall not be unreasonably withheld. Any disputes between the Asbestos Trust and Reorganized ASARCO or the Plan Administrator regarding the production of any documents or communications or the waiver of any Privileges shall be decided by the Bankruptcy Court. Production of materials to the Asbestos Trust does not constitute a waiver or an impairment of any Privilege held by Reorganized ASARCO, Reorganized Covington, or any of the Debtors. In the event that any third party challenges any such Privilege, Reorganized ASARCO or the Asbestos Trustees may seek protection from a court of competent jurisdiction. References in this Article 7.13 to Reorganized ASARCO shall also include its successors in interest.

7.14 Cooperation with Respect to Insurance Matters. Reorganized ASARCO and the Plan Sponsor shall cooperate with the Asbestos Trust and use commercially reasonable efforts to take or cause to be taken all appropriate actions and to do or cause to be done all things necessary or appropriate to effectuate all transfers and assignments identified herein to the Asbestos Trust; *provided, however*, that the Plan Sponsor's cooperation in that regard shall be subject to the terms and conditions of the Transition Services Agreement or the New Plan Sponsor PSA, as applicable, and any requests made to the Plan Sponsor under this Article 7.14 shall be made through Reorganized ASARCO or its representatives. Reorganized ASARCO shall, without limitation, (a) provide the Asbestos Trust with copies of insurance policies and settlement agreements included within or relating to the Unsecured Asbestos Personal Injury Claims and Demands; (b) provide the Asbestos Trust with information necessary or helpful to the Asbestos Trust in connection with its efforts to obtain insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries from an Asbestos Insurance Company, in its capacity as such, including, without limitation, recoveries of extracontractual

damages; (c) execute assignments or allow the Asbestos Trust to pursue claims in its own name (subject to appropriate disclosure of the fact that the Asbestos Trust is doing so and the reasons why it is doing so), including by means of arbitration, alternative dispute resolution proceedings, or litigation, to the extent necessary or helpful to the efforts of the Asbestos Trust to obtain insurance coverage for the Unsecured Asbestos Personal Injury Claims and Demands as well as other recoveries from an Asbestos Insurance Company, in its capacity as such, including, without limitation, recoveries of extracontractual damages; and (d) pursue and recover insurance coverage for the Unsecured Asbestos Personal Injury Claims and Demands as well as other recoveries from an Asbestos Insurance Company, in its capacity as such, including, without limitation, recoveries of extracontractual damages, in its own name or right to the extent that any or all of the transfers, assumptions, and assignments identified herein are not able to be fully effectuated, with any and all recoveries therefrom to be turned over to the Asbestos Trust. The Asbestos Trust shall be obligated to compensate Reorganized ASARCO for all costs and expenses reasonably incurred in connection with providing assistance to the Asbestos Trust under this Article 7.14, including, without limitation, out-of-pocket costs and expenses, consultant fees, and attorneys' fees.

7.15 Termination of the Asbestos Trust. The Asbestos Trust shall automatically dissolve on the date 90 days after the first to occur of the following events:

(a) the date on which the Asbestos Trustees decide to dissolve the Asbestos Trust because (1) they deem it unlikely that new asbestos claims will be filed against the Asbestos Trust; (2) all Unsecured Asbestos Personal Injury Claims duly filed with the Asbestos Trust have been liquidated and paid to the extent provided in the Asbestos Trust Agreement and the Asbestos TDP or have been disallowed by a Final Order, to the extent possible based upon the funds available through this Plan; and (3) 12 consecutive months have elapsed during which no new asbestos claim has been filed with the Asbestos Trust;

(b) if the Asbestos Trustees have procured and have in place irrevocable insurance policies and have established claims handling agreements and other necessary arrangements with suitable third parties adequate to discharge all expected remaining obligations and expenses of the Asbestos Trust in a manner consistent with the Asbestos Trust Agreement and the Asbestos TDP, the date on which the Bankruptcy Court enters an order approving the insurance and other arrangements and the order of the Bankruptcy Court becomes a Final Order; or

(c) to the extent that any rule against perpetuities shall be deemed applicable to the Asbestos Trust, the date on which 21 years less 91 days pass after the death of the last survivor of all of the descendants of the late Joseph P. Kennedy, Sr., father of the late President John F. Kennedy, living on the date hereof.

7.16 Termination of the Asbestos Trustees and the Delaware Trustee. The duties, responsibilities, rights, and obligations of the Asbestos Trustees and the Delaware Trustee for the Asbestos Trust shall terminate in accordance with the terms of the Asbestos Trust Agreement.

7.17 Asbestos Trust Reporting Requirements.

Notwithstanding anything to the contrary in this Plan or the Asbestos TDP, the Asbestos Trust shall provide, in accordance with the LMI Agreement, the Reports to the Participating LMI or their representative, on at least a quarterly basis, with the first Report to be provided to the Participating LMI or their representative within 90 days of the Effective Date.

Alternatively, the Asbestos Trust may provide the Participating LMI or their representative with access to any database(s) that the Asbestos Trust maintains for asbestos-related bodily injury claims provided that such databases(s) contain the data required to be contained in the Reports and provided further that such database(s) can be operated by the Participating LMI or their representative to produce data reports reasonably equivalent to the Reports.

The Participating LMI and their representative shall exercise their reasonable best efforts to maintain the confidentiality of the Reports, including, without limitation, seeking a confidentiality pledge from any auditor, regulator or reinsurer to which they provide the Reports and seeking a protective order in any proceeding in which they use the Reports, but the Participating LMI's right to disclose any portion of the Reports to their auditors, regulators or reinsurers shall not be affected if their reasonable best efforts do not result in a confidentiality pledge being given or a confidentiality order being entered. A Report or information contained in any Report shall only be disclosed to another party by a Participating LMI for the purpose of seeking reimbursement from reinsurers in connection with the LMI Agreement or to respond to inquiries made by its auditor or by a regulatory authority in connection with the LMI Agreement; provided, that nothing herein shall prevent the Participating LMI from using the Reports for their own internal purposes, so long as such purposes relate to ASARCO and/or the Subject Insurance Polices (as defined in the LMI Agreement) but shall not be used in relation to other insureds of the Participating LMI.

ARTICLE VIII

TREATMENT OF EXECUTORY AND POST-PETITION CONTRACTS AND UNEXPIRED LEASES

8.1 Assumption or Rejection of Unexpired Leases and Executory Contracts. On the Effective Date, except as otherwise provided in this Plan, any unexpired lease or executory contract that has not been previously assumed or rejected by a Debtor pursuant to an order of the Bankruptcy Court shall be deemed rejected by such Debtor under sections 365(a) and 1123 of the Bankruptcy Code, other than those executory contracts and unexpired leases that are (a) listed in **Exhibit 2** hereto (as such list may be amended, supplemented, or modified by the Debtors on or before the Confirmation Date) or (b) subject to a motion to assume that is pending on the Effective Date. Entry of the Confirmation Order shall constitute approval of (a) such rejections, and (b)(1) the assumption by ASARCO and assignment to the Plan Sponsor of the executory contracts and unexpired leases listed in **Exhibit 2-A** hereto; (2) the assumption by ASARCO and assignment to an Environmental Custodial Trust of the executory contracts and unexpired leases listed in **Exhibit 2-B** hereto; and (3) the assumption by the applicable Debtor and vesting in Reorganized ASARCO or Reorganized Covington of the executory contracts and

unexpired leases listed in **Exhibit 2-C** hereto (as each such list may be amended, supplemented, or modified by the Debtors on or before the Confirmation Date), pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Any motions to assume executory contracts and unexpired leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order.

8.2 Approval of Assumption or Rejection of Executory Contracts and Unexpired Leases. Entry of the Confirmation Order shall, subject to and upon the occurrence of the Effective Date, constitute (a) the approval, pursuant to sections 365(a), 365(f), and 1123 of the Bankruptcy Code, of the assumption by one of the Debtors and assignment to the Plan Sponsor or an Environmental Custodial Trust, or vesting in Reorganized ASARCO or Reorganized Covington (as specified in **Exhibit 2**) of the executory contracts and unexpired leases assumed, or assumed and assigned, pursuant to Article 8.1 of this Plan; (b) the extension of time, pursuant to section 365(d)(4) of the Bankruptcy Code, within which the Debtors may assume, assume and assign, or reject the unexpired leases specified in Article 8.1 of this Plan through the date of entry of an order approving the assumption, assumption and assignment, or rejection of such unexpired leases; and (c) the approval, pursuant to sections 365(a) and 1123 of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected pursuant to Article 8.1 of this Plan.

8.3 Inclusiveness. Unless otherwise specified in **Exhibit 2** hereto, each executory contract and unexpired lease listed or to be listed in **Exhibit 2** shall include all modifications, amendments, or supplements thereto, or restatements thereof, without regard to whether such agreement, instrument, or other document is listed in **Exhibit 2**.

8.4 Rejection Damages. The Bankruptcy Court shall determine the amount, if any, of the Claim of any Entity seeking damages by reason of the rejection of any executory contract or unexpired lease to which it is a counterparty.

8.5 Rejection Damages Bar Date. If the rejection by a Debtor, pursuant to Article 8.1 of this Plan, of an executory contract or unexpired lease results in a Claim, then such Claim shall be forever barred and discharged and shall not be enforceable against any Debtor, Reorganized Debtor, or their respective properties, unless a Proof of Claim is filed and served upon Reorganized ASARCO and the Plan Administrator within 30 days after the later of the Effective Date or the date of entry of an order approving such rejection. To the extent any such Claim is Allowed by the Bankruptcy Court by Final Order, such Claim shall be treated for all purposes under this Plan as a Class 3 General Unsecured Claim, and the holder thereof shall receive distributions as a holder of an Allowed General Unsecured Claim, pursuant to this Plan.

8.6 Payments Related to Assumption of Executory Contracts and Unexpired Leases.

(a) To the extent that such Claims constitute monetary defaults, the Cure Amount Claims shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by the Debtors: (1) by payment of the Cure Amount Claim on the Effective Date or (2) on such other terms as are agreed to by the Debtors and the non-debtor parties to the executory contract or unexpired lease. In the event of a dispute regarding (1) the amount of any Cure Amount Claim; (2) the ability of the Plan Sponsor or an Environmental Custodial Trust to provide "adequate

assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed and assigned; or (3) any other matter pertaining to assumption or assumption and assignment of such contract or lease, the payment of any Cure Amount Claim required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving the dispute and approving the assumption or the assumption and assignment (except as otherwise provided in Article 8.6(b) of this Plan).

(b) Pursuant to section 3.5(d) of the New Plan Sponsor PSA, at the Closing, ASARCO shall deliver to the Plan Sponsor a statement of any Unpaid Cure Claims Amount and the Contract(s) corresponding thereto, including a calculation thereof. The Plan Sponsor shall be permitted (but not required), within 30 days after receipt of such statement, to pay any Unpaid Cure Claims Amount, and within 10 days after any such payment, the Plan Sponsor shall provide a written notice to ASARCO of such payment and the Contract(s) corresponding thereto. To the extent the Plan Sponsor pays any Unpaid Cure Claims Amount pursuant to section 3.5(d) of the New Plan Sponsor PSA, Reorganized ASARCO shall, within 10 days of receipt of notice from the Plan Sponsor delivered in accordance with section 3.5(d) thereof, reimburse the Plan Sponsor in the amount of such payment; provided that the Confirmation Order shall provide that, as between the Sellers and the counterparty of the underlying Contract, (1) neither the payment nor the reimbursement of a disputed Unpaid Cure Claims Amount shall constitute a waiver, admission, or estoppel in respect of any claims or defenses that ASARCO or Reorganized ASARCO may have related to such Unpaid Cure Claims Amount or the underlying Contract and (2) the right of ASARCO or Reorganized ASARCO to object, assert any counterclaim, or exercise any setoff or other rights in connection with such Unpaid Cure Claims Amount or the underlying Contract shall be preserved regardless of any such payment or reimbursement; *provided*, *however*, that failure of the Confirmation Order to so provide shall not relieve the Sellers of their payment obligations as set forth in section 3.5(d) of the New Plan Sponsor PSA.

8.7 Contracts and Leases Previously Assumed or Entered into After the Petition Date.

(a) Unless otherwise provided in Articles 8.7(b) and (c), 8.8, or 8.9 of this Plan, each Contract that is a "Pre-Petition Contract" (as such term is defined in section 3.1(e)(A) of the New Plan Sponsor PSA) or is entered into by ASARCO after the Petition Date as described in section 3.1(e)(B) of the New Plan Sponsor PSA shall be assigned to, and such Debtor's obligations thereunder assumed by, the Plan Sponsor in accordance with the New Plan Sponsor PSA; *provided, however*, that any such Contract entered into after the date of the New Plan Sponsor PSA other than in the Ordinary Course of Business shall be assigned to, and such Debtor's obligations thereunder assumed by, the Plan Sponsor only with the Plan Sponsor's written consent.

(b) Each contract or lease entered into by any Debtor after the Petition Date that is identified in **Exhibit 2-D** to this Plan (as such list may be amended, supplemented, or modified on or before the Confirmation Date) shall be assigned to, and such Debtor's obligations thereunder assumed by, one or more Environmental Custodial Trusts, as specified in **Exhibit 2-D** hereto.

(c) Each contract or lease entered into by any Debtor after the Petition Date that is identified in **Exhibit 2-E** to this Plan (as such list may be amended, supplemented, or

modified on or before the Confirmation Date) shall vest in, and such Debtor's obligations thereunder assumed by, Reorganized ASARCO or Reorganized Covington, as specified in **Exhibit 2-E** hereto.

8.8 Employee Benefits Plans, Retiree Benefits, and Other Benefits.

(a) ASARCO shall satisfy its contribution obligations under ERISA to the Hourly and Salaried Plans during the pendency of the Reorganization Cases and through the Closing Date. ASARCO is the sponsor of the Hourly and Salaried Plans, each of which is covered by Title IV of ERISA.

In the event that either the Hourly Plan or the Salaried Plan or both terminate during the pendency of the Reorganization Cases, or prior to the Closing Date, certain Claims will arise, including joint and several liabilities of the Debtors to the PBGC that may be entitled to priority under various sections of the Bankruptcy Code to the extent provided under applicable law.

(b) Effective as of the Closing Date, the Plan Sponsor shall adopt and become the "contributing sponsor" of the Hourly and Salaried Plans for purposes of ERISA, and the Plan Sponsor, and each and every member of its "controlled group," as defined in section 4001(a)(14) of ERISA, shall be responsible for satisfying the legal obligations to the Hourly and Salaried Plans subsequent to the Closing Date, including the obligation to fund the Hourly and Salaried Plans pursuant to applicable law.

In the event that Hourly Plan or the Salaried Plan or both terminate subsequent to the assumption of the Hourly and Salaried Plans by the Plan Sponsor, the joint and several liability of the Plan Sponsor, and of each and every member of its "controlled group" (as defined above) to PBGC, if any, will not be affected by any provision of this Plan or by Confirmation of this Plan.

(c) As of the Closing Date, the Plan Sponsor shall adopt and become the sponsor and employer for purposes of each and every Employee Benefit Plan set forth in section 9.3 of the Disclosure Schedule, including the Hourly and Salaried Plans, and shall be substituted for ASARCO or its Subsidiaries that had theretofore been the sponsor of any such Employee Benefit Plan. Effective as of the Closing, the Plan Sponsor shall be responsible for all benefits and liabilities with respect to such Employee Benefit Plans, as such Employee Benefit Plans may be amended or modified from time to time by written agreement between the Plan Sponsor and the Unions after the Closing Date.

(d) With respect to each Transferred Employee (as such term is defined in the New Plan Sponsor PSA) including any beneficiary or the dependent thereof, the Plan Sponsor shall assume all of ASARCO's liabilities and obligations for workers' compensation benefits, even if such liability or obligation relates to Claims incurred (whether or not reported or paid) prior to the Closing Date.

(e) Effective as of the Closing Date, the Plan Sponsor shall be responsible for providing coverage under COBRA to any Employee (as such term is defined in section 9.1(a) of the New Plan Sponsor PSA), his or her spouse, or dependent person as to whom a "qualifying

event" as defined in section 4890B of the Internal Revenue Code has occurred (1) prior to the Closing Date in the case of a "qualifying event" other than a termination of employment and (2) in the case of a termination of employment "qualifying event" on or prior to the Closing Date. The Plan Sponsor shall also be responsible for providing COBRA coverage to any Employee, his or her spouse, or dependent person as to whom a "qualifying event" occurs on or after the Closing Date including for a "qualifying event" that is a termination of employment on the Closing Date.

(f) The Plan Sponsor shall assume and be responsible for all of ASARCO's obligations under the Coal Act, including the obligations (1) to provide retiree health benefits to eligible beneficiaries and their dependents pursuant to section 9711 of the Coal Act, 26 U.S.C. § 9711; (2) to pay the annual prefunding premium and the monthly per beneficiary premium required pursuant to section 9712(d)(1)(A) and (B) of the Coal Act, 26 U.S.C. § 9712(d)(1)(A) and (B); and (3) to provide security to the UMWA 1992 Benefit Plan pursuant to section 9712(d)(1)(C) of the Coal Act, 26 U.S.C. § 9712(d)(1)(C); *provided, however*, that the Plan Sponsor shall not be responsible for the Debtors' prepetition premium obligations arising under the Coal Act, nor for a Claim for withdrawal liability arising under the United Mineworkers 1974 Pension Plan, which obligations shall be classified and treated as Class 3 General Unsecured Claims.

(g) The Plan Sponsor shall assume and be responsible for all of ASARCO's obligations under the CBA as amended by that certain letter agreement entered into between the USW and the Plan Sponsor and dated June 23, 2008, which shall become effective on the Closing Date, and the retiree class action settlement agreement approved by the Bankruptcy Court by order dated March 15, 2007 (Docket No. 4178), which settled the cause of action captioned *Asarco Incorporated et al. v. United Steelworkers of America, AFL-CIO/CLC, et al.*, No. CV-03-1297.

8.9 Bonds and Assurances. Pursuant to section 8.9 of the New Plan Sponsor PSA, prior to Closing, the Plan Sponsor shall (a) cause ASARCO to be fully, unconditionally, and irrevocably released and discharged from the Bonds and Assurances (as such term is defined in the New Plan Sponsor PSA) including, without limitation, SPT Bond Nos. 394729 and 403998, and (b) replace the Bonds and Assurances or act as a substituted obligor, guarantor, or other counterparty to the Bonds and Assurances as required for the continued operation of the Business. The surety, performance, payment, and other bonds listed in section 3.2(j) of the Disclosure Schedule shall be retained by ASARCO and shall revest in Reorganized ASARCO on the Effective Date.

ARTICLE IX

CONDITIONS TO EFFECTIVENESS

9.1 Conditions to Effectiveness. Notwithstanding any other provision of this Plan or any order entered in connection with the Reorganization Cases, the Effective Date of this Plan shall not occur until and unless each of the following conditions to effectiveness have been satisfied or waived pursuant to Article 9.2 of this Plan:

(a) *Disclosure Statement*.

The Bankruptcy Court has approved the Disclosure Statement.

(b) *Confirmation Findings and Conclusions*.

The District Court makes or affirms the following findings of fact and conclusions of law:

(1) As of the Petition Date, ASARCO and the Asbestos Subsidiary Debtors have each been named as a defendant in personal injury, wrongful death, or property damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

(2) This Plan has been approved by creditors in Class 4 under this Plan in the requisite numbers and amounts required by sections 524(g), 1126, and 1129 of the Bankruptcy Code;

(3) On the Effective Date, the Asbestos Trust shall assume the liabilities of the Debtors with respect to the Unsecured Asbestos Personal Injury Claims and Demands and shall receive all transfers and assignments as set forth herein;

(4) As of the Effective Date, there were no pending or known property damage actions seeking damages as a result of property damage allegedly caused by or arising out of asbestos or asbestos-containing products;

(5) The Asbestos Trust is to be funded in part by securities of Reorganized Covington and by the obligation of such debtor to make future payments;

(6) The Asbestos Trust, upon the Effective Date, is to own 100 percent of the interests in Reorganized Covington;

(7) The Asbestos Trust shall use its assets and income to pay the Unsecured Asbestos Personal Injury Claims and Demands;

(8) The Debtors are likely to be subject to substantial future Demands for payment arising out of the same or similar conduct or events that gave rise to the Unsecured Asbestos Personal Injury Claims, which are addressed by the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction;

(9) The actual amounts, numbers, and timing of future Demands cannot be determined;

(10) Pursuit of Demands outside the procedures prescribed by this Plan is likely to threaten this Plan's purpose to deal equitably with Claims and future Demands;

(11) The terms of the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction, including any provisions barring actions against third parties, are set out in this Plan and in the Disclosure Statement;

(12) The Asbestos Trust shall operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of Unsecured Asbestos Personal Injury Claims and Demands, or other comparable mechanisms, that provide reasonable assurance that the Asbestos Trust shall value, and be in a financial position to pay, all Unsecured Asbestos Personal Injury Claims and Demands in substantially the same manner;

(13) The FCR was appointed by the Bankruptcy Court as part of the proceedings leading to the issuance of the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction for the purpose of, among other things, protecting the rights of persons that might subsequently assert Demands of the kind that are addressed in the Permanent Channeling Injunction or the Asbestos Insurance Company Injunction and that are to be assumed and paid by the Asbestos Trust in accordance with the Asbestos Trust Documents;

(14) In light of the respective benefits provided, or to be provided, to the Asbestos Trust by, or on behalf of, each ASARCO Protected Party, the Permanent Channeling Injunction is fair and equitable with respect to the persons that might subsequently assert Demands against any ASARCO Protected Party;

(15) In light of the respective benefits provided, or to be provided, by a Settling Asbestos Insurance Company in order to receive the benefits of the Asbestos Insurance Company Injunction, the Asbestos Insurance Company Injunction is fair and equitable with respect to the persons who might subsequently assert Demands against any Settling Asbestos Insurance Company;

(16) The Settling Asbestos Insurance Companies are alleged to be directly or indirectly liable for the Unsecured Asbestos Personal Injury Claims and Demands for one or more of the reasons set forth in section 524(g)(4)(A)(ii) of the Bankruptcy Code;

(17) The Permanent Channeling Injunction and the Asbestos Insurance Company Injunction are integral parts of this Plan and may not be vacated, amended, or modified after Confirmation except to the extent expressly provided in Article 11.3(a) and (b) of this Plan;

(18) This Plan complies with all applicable sections of the Bankruptcy Code, including section 524(g) of the Bankruptcy Code, and the Debtors have complied with all applicable sections of the Bankruptcy Code;

(19) The New Plan Sponsor PSA and all other documents necessary to consummate the sale of the Sold Assets to the Plan Sponsor are approved in all respects,

and all parties thereto are authorized and directed to perform all their obligations thereunder;

(20) The sale of the Sold Assets to the Plan Sponsor pursuant to this Plan is approved pursuant to sections 363, 1123, and 1129 of the Bankruptcy Code, and the Plan Sponsor has (A) provided reasonably equivalent value and (B) acted in good faith for the purposes of section 363(m) of the Bankruptcy Code; and

(21) Approval of the settlements and compromises set forth in Article 10.3 and 10.26 hereof is appropriate under Bankruptcy Rule 9019 and applicable law governing approval of such settlements and compromises, and shall be ordered as part of the Confirmation Order.

(c) *Confirmation Order*.

The Confirmation Order entered or affirmed by the District Court (1) is acceptable to the Debtors and (2) to the extent the Confirmation Order relates to the New Plan Sponsor PSA, the Plan Sponsor (and the Guarantor), or the transactions contemplated by the New Plan Sponsor PSA, is reasonably satisfactory to the Plan Sponsor.

(d) *No Stay*.

The Confirmation Order is not stayed pursuant to an order issued by a court of competent jurisdiction.

(e) *Plan Documents*.

The Plan Documents necessary or appropriate to implement this Plan have been (1) executed (A) in a form acceptable to the Debtors and (B) with respect to the Disclosure Statement, to the extent it describes the New Plan Sponsor PSA, the Plan Sponsor (and the Guarantor), or the transactions contemplated by the New Plan Sponsor PSA, in a form and substance reasonably satisfactory to the Plan Sponsor; (2) delivered; and (3) where applicable, filed with the appropriate governmental or supervisory authorities.

(f) *Funding of the Trusts*.

The Trusts have been funded as provided in Articles 10.5 to 10.7 of this Plan.

(g) *U.S. Trustee's Fees*.

Any fees owed to the U.S. Trustee by the Debtors as of the Effective Date have been paid in full.

(h) *Closing of the Sale of Sold Assets to Plan Sponsor*.

The Confirmation Order approves the sale of the Sold Assets to the Plan Sponsor on the Closing Date.

(i) *Approval of Environmental Settlements*.

The settlement agreements for the Previously Settled Environmental Claims, the Miscellaneous Federal and State Environmental Claims, the Residual Environmental Claims, and the Environmental Custodial Trusts have been approved by the Bankruptcy Court and, where so required by the terms of the settlement agreement, by the appropriate federal district court.

(j) *Assumption and Assignment of the Mission Mine Settlement Agreement*.

The Mission Mine Settlement Agreement, all related agreements (including the Mission Mine Unexpired Agreements), and escrowed funds and financial assurances shall be assumed by, and assigned to, the Plan Sponsor, pursuant to the New Plan Sponsor PSA.

(k) *Approval of the Asbestos Settlement*.

The Confirmation Order approves the Asbestos Settlement.

(l) *Assumption and Assignment of Hayden Settlement Agreement.*

The Hayden Settlement Agreement, all related agreements, and escrowed funds and financial assurances shall be assumed by, and assigned to, the Plan Sponsor.

(m) *HSR Act Approval*.

Any waiting period (including any extension thereof) applicable to the sale to and purchase by the Plan Sponsor of the Sold Assets under the HSR Act or under the regulations of any other applicable governmental antitrust or competition authority, where failure to comply with such regulations would prohibit the consummation of the transactions contemplated by the New Plan Sponsor PSA, shall have been terminated or expired.

(n) *Put Option*.

The Put Option has been executed and delivered by Sterlite to the Asbestos Trustees under the Asbestos Trust.

9.2 Waiver of Conditions to Effectiveness. The Debtors, in their sole discretion, may waive any condition to effectiveness in Article 9.1 of this Plan by filing a notice of such waiver with the clerk of the Bankruptcy Court and by serving a copy of such notice on the Plan Sponsor, the U.S. Trustee, the Committees, the FCR, and the DOJ; *provided, however*, that:

(a) the DOJ and any affected state must consent to any waiver of any of the conditions to effectiveness set forth in Article 9.1(e)(1), (f), (i), (j), and (l);

(b) the Asbestos Claimants' Committee and the FCR must consent to any waiver of any of the conditions to effectiveness set forth in Article 9.1(e)(1), (f), (k), and (n); and

(c) the Plan Sponsor must consent to any waiver of any of the conditions to effectiveness set forth in Article 9.1(c)(2), (e)(1)(B), and (m);

and *provided further* that in each instance described in clauses (a), (b), and (c) of this Article 9.2, such consent shall not be unreasonably withheld, delayed, or conditioned.

9.3 Notice of Effective Date. Reorganized ASARCO shall give notice of the Effective Date within five Business Days after its occurrence.

9.4 Non-Occurrence of Effective Date. In the event that the Effective Date does not occur, all parties shall be returned to the position they would have held had the Confirmation Order not been entered, and nothing in this Plan, Disclosure Statement, any Plan Document, or any pleading or statement in court shall be deemed to constitute an admission or waiver of any sort or in any way to limit, impair, or alter the rights of any Entity.

ARTICLE X

IMPLEMENTATION OF THIS PLAN

10.1 Sale of Sold Assets to Plan Sponsor.

(a) On the Closing Date, the Sold Assets shall be sold to the Plan Sponsor on the terms and subject to the conditions contained in the New Plan Sponsor PSA and the Ancillary Agreements entered into in connection therewith.

(b) Pursuant to section 4.1 of the New Plan Sponsor PSA, the total consideration paid by the Plan Sponsor to the Sellers in consideration of the sale, conveyance, transfer, assignment, and delivery of the Sold Assets is (1) an amount equal to: (A) $1.1 billion plus (B) the Plan Sponsor Promissory Note, and (2) the assumption by the Plan Sponsor of the Assumed Liabilities. The Plan Sponsor Promissory Note shall be issued to the Liquidation Trust, and payments thereunder shall be received by the Liquidation Trust for distribution in accordance with the terms of the Liquidation Trust and this Plan.

(c) Pursuant to section 3.5(d) of the New Plan Sponsor PSA, the Plan Sponsor is entitled to reimbursement from ASARCO of any Unpaid Cure Claims Amount paid by the Plan Sponsor in accordance with such section 3.5(d). On the Effective Date (or as soon thereafter as is reasonably practicable), ASARCO, Reorganized ASARCO, or the Plan Administrator, as the case may be, shall place Cash in the amount of $5 million in the Unpaid Cure Claims Reserve to be used to make payment in respect of any Unpaid Cure Claims Amount for which ASARCO may be required to reimburse the Plan Sponsor pursuant to section 3.5(d) thereof. Such funds shall be held in the Unpaid Cure Claims Reserve until notice is provided by the Plan Sponsor pursuant to section 3.5(d) of the New Plan Sponsor PSA (or the period in which

any such notice is required to be provided has expired), whichever occurs later, and shall be applied in accordance with section 3.5(d) thereof, if and as applicable.

10.2 Appointment of Plan Administrator and Plan Administration Committee, and Funding of Miscellaneous Plan Administration Accounts.

(a) Upon approval in the Confirmation Order, the Plan Administrator shall be appointed. The Plan Administrator shall have and perform all of the duties, responsibilities, rights, and obligations set forth in the Plan Administration Agreement, which shall include, without limitation, the obligation to enter into agreements with third party contractors to conduct and complete the following ongoing response actions to the extent funded by the Prepetition ASARCO Environmental Trust or the Prepetition ASARCO Environmental Trust Escrow: the uncompleted portion of residential yard cleanups required under the El Paso Stipulation or included in the "Ongoing Obligation" portion of the East Helena Soils Settlement Agreement; *provided, however*, that any agreement entered into by the Plan Administrator and any third party with respect to such response actions shall not include any indemnification obligation by ASARCO, any other Debtor, Reorganized ASARCO, or the Plan Administrator. In the event that the Plan Administrator is unable to enter into an agreement with a third party contractor in respect of such response actions without providing indemnification to the third party, the Plan Administrator shall be excused from any and all obligations with respect to the performance of such response actions. The Plan Administrator shall serve without bond, may employ or contract with other Persons to assist in the performance of the Plan Administrator's duties, which shall be set forth in the Plan Administration Agreement, and shall procure appropriate directors-and-officers liability insurance and other insurance coverage appropriate to the business in which Reorganized ASARCO is to be engaged. The Plan Administrator shall receive, without further Bankruptcy Court approval, reasonable compensation for such services and reimbursement of reasonable out-of-pocket expenses incurred in connection with such services.

(b) The initial members of the Plan Administration Committee shall be those Persons designated in the Confirmation Order. They shall consult with and advise the Plan Administrator, as is set forth in greater detail in the Plan Administration Agreement.

(c) On the Effective Date (or as soon thereafter as is reasonably practicable), ASARCO, Reorganized ASARCO, or the Plan Administrator, as the case may be, shall (1) fund the Plan Administration Account with Cash to be used to pay the Plan Administrator's estimated compensation and expenses and all other anticipated costs of administration of this Plan and initial operations of Reorganized ASARCO (including, without limitation, taxes); and (2) fund the Miscellaneous Plan Administration Accounts. The Plan Administrator may also establish such general accounts, subaccounts, reserves, or escrows as the Plan Administrator deems necessary and appropriate. In accordance with the Plan Administration Agreement, the Plan Administrator shall invest the Cash held in accounts, reserves, and escrows on behalf of Reorganized ASARCO in direct obligations of the United States of America or obligations of any agency or instrumentality thereof which are guaranteed by the full faith and credit of the United States of America, including funds consisting solely or predominately of such securities.

(d) The Plan Administrator shall prosecute, settle, or otherwise resolve the Vested Causes of Action, and shall place the Vested Causes of Action Proceeds (if any) in the Vested Causes of Action Escrow.

(e) The Plan Administrator shall allocate the funds in the Plan Administration Account to subaccounts corresponding to the enumerated functions of the Plan Administrator. Until the Plan Administrator has discharged the Plan Administrator's obligations with respect to the purpose for which a particular subaccount or Miscellaneous Plan Administration Account was established, the funds in those subaccounts and the Miscellaneous Plan Administration Accounts may only be used for the purpose designated for that particular account or subaccount. In addition, any taxes attributable to the earnings of the Plan Administration Account, a subaccount, or a Miscellaneous Plan Administration Account (as well as any taxes directly imposed on such account or subaccount) shall be paid out of the assets of such account or subaccount.

(f) To the extent there are any excess funds in the Plan Administration Account (or any subaccount thereof) or any Miscellaneous Plan Administration Account, the Plan Administrator shall, after consultation with and approval by the Plan Administration Committee, first transfer such excess funds to any underfunded subaccount or Miscellaneous Plan Administration Account (but only to the extent of any underfunding) and then distribute such funds to the Liquidation Trust for distribution in accordance with the terms and conditions of the Liquidation Trust Agreement.

(g) The Plan Administrator shall have the power to seek injunctive or other necessary or appropriate relief from the Bankruptcy Court to ensure that the funds in the Plan Administration Reserve are used only for the purposes specifically directed in this Plan and the Plan Administration Agreement.

(h) On and after the Effective Date, the Plan Administrator shall be a representative of the Estates under section 1123(b)(3) of the Bankruptcy Code with respect to the Vested Causes of Action and the Debtors' Privileges associated therewith. The Plan Administrator shall be granted the rights and powers of a debtor in possession under section 1107 of the Bankruptcy Code, including, without limitation, the duty to prosecute the Vested Causes of Action and distribute the proceeds of such claims and such other rights and powers as set forth in the Plan Administration Agreement.

10.3 Approval of Asbestos Settlement. This Plan implements an agreement in principle regarding asbestos-related liabilities, which is set forth in the Sterlite Plan Agreement in Principle Term Sheet attached to this Plan as **Exhibit 9**. Pursuant to Bankruptcy Rule 9019, Confirmation of this Plan shall approve the Asbestos Settlement.

10.4 Distribution of Available Plan Funds. On the Initial Distribution Date, Reorganized ASARCO (and thereafter the Plan Administrator) shall distribute the Available Plan Funds, in accordance with this Plan.

10.5 Creation and Funding of the Liquidation Trust and the SCC Litigation Trust.

(a) On the Effective Date, (1) the Liquidation Trust shall be created and the Liquidation Trust Expense Fund shall be established; (2) the Debtors' respective rights, title, and interests in the Liquidation Trust Claims and the Debtors' Privileges associated therewith shall be transferred to the Liquidation Trust; and (3) ASARCO, Reorganized ASARCO, or the Plan Administrator, as the case may be, shall deposit Cash in the amount of $10 million in the Liquidation Trust Reserve. The Plan Administrator shall maintain the Liquidation Trust Reserve and shall from time to time, when requested to do so by the Liquidation Trustee, transfer funds from the Liquidation Trust Reserve to the Liquidation Trustee for the Liquidation Trust Expense Fund as the Liquidation Trustee deems reasonably necessary to the continued operations of the Liquidation Trust, up to an aggregate amount of $10 million. Upon a determination by the Liquidation Trustee that no additional funds will be needed from the Liquidation Trust Reserve, the Plan Administrator shall allocate the remaining funds in the Liquidation Trust Reserve in accordance with the terms and conditions of the Plan Administration Agreement.

(b) On the Effective Date, (1) the SCC Litigation Trust shall be created and the SCC Litigation Trust Expense Fund shall be established; (2) the Debtors' respective rights, title, and interests in the SCC Litigation Trust Claims and the Debtors' Privileges associated therewith shall be transferred to the SCC Litigation Trust; and (3) ASARCO, Reorganized ASARCO, or the Plan Administrator, as the case may be, shall deposit Cash in the amount of $15 million in the SCC Litigation Trust Reserve. The Plan Administrator shall maintain the SCC Litigation Trust Reserve and shall from time to time, when requested to do so by the SCC Litigation Trustee, transfer funds from the SCC Litigation Trust Reserve to the SCC Litigation Trustee for the SCC Litigation Trust Expense Fund as the SCC Litigation Trustee deems reasonably necessary to the continued operations of the SCC Litigation Trust, up to an aggregate amount of $15 million. Upon a determination by the SCC Litigation Trustee that no additional funds will be needed from the SCC Litigation Trust Reserve, the Plan Administrator shall allocate the remaining funds in the SCC Litigation Trust Reserve in accordance with the terms and conditions of the Plan Administration Agreement.

10.6 Asbestos Trust Creation and Funding. On or before the Effective Date, the Asbestos Trust shall be created. On the Effective Date, all of the Debtors' respective rights, title, and interests in the Asbestos Trust Assets, including $27.5 million in Cash for purposes of Asbestos Trust Expenses, shall be transferred to the Asbestos Trust.

10.7 Environmental Custodial Trusts Creation and Funding. On or before the Effective Date, the Environmental Custodial Trusts shall be created, and the Custodial Trust Administrative Accounts shall be funded pursuant to the applicable Environmental Custodial Trust Agreements, and by the Effective Date, the Debtors' respective rights, title, and interests in the Designated Properties, together with the appropriate Environmental Custodial Trust Funding and Environmental Custodial Administration Trust Funding for such properties, shall be transferred to the applicable Environmental Custodial Trusts, which shall take title pursuant to the applicable Environmental Custodial Trust Agreements.

10.8 Prepetition ASARCO Environmental Trust.

(a) The Prepetition ASARCO Environmental Trust shall remain in existence, and shall be unaffected by the Reorganization Cases or any related settlements. The Plan Administrator or Reorganized ASARCO shall succeed to ASARCO's administrative role, and shall, as provided in Article 10.2(a) above, act as Performing Entity (as defined in the trust agreement) from time to time, but shall assume no affirmative liabilities or obligations associated with that role. However, the various environmental settlement agreements were based on the assumption that certain environmental response actions for the settled sites would be reimbursed from the Prepetition ASARCO Environmental Trust.

(b) The funds remaining in the Prepetition ASARCO Environmental Trust are separate from and without prejudice to the distributions to be made to holders of environmental Claims under this Plan.

(c) To allow for the possibility that AMC fails to make a required payment due under the note that funds the Prepetition ASARCO Environmental Trust, Reorganized ASARCO shall hold back from distributions under this Plan the amount that the Prepetition ASARCO Environmental Trust would receive if AMC were to have made the required payment (i.e., $12.5 million plus accrued interest in accordance with the note), and place such amount in the Prepetition ASARCO Environmental Trust Escrow. In the event that AMC fails to make the payment remaining due under the note, the Plan Administrator shall pay a corresponding amount to the Prepetition ASARCO Environmental Trust from the Prepetition ASARCO Environmental Trust Escrow, and the Plan Administrator, the trustee of the Prepetition ASARCO Environmental Trust, and the United States shall reasonably cooperate in determining the most efficient mechanism to recover the amount owed by AMC. Upon AMC's payment of the amount due under the note, the Plan Administrator may release a corresponding amount from the Prepetition ASARCO Environmental Trust Escrow and distribute such funds in accordance with the terms and conditions of this Plan and the Confirmation Order.

10.9 Operations Between the Confirmation Date and the Effective Date. Except as set forth herein with respect to the appointment of the Plan Administrator, during the period from the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate as debtors in possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all orders of the Bankruptcy Court that are then in full force and effect.

10.10 Cancellation of Existing Interests. Unless otherwise agreed to by the Debtors, and except to the extent otherwise provided herein, on the Effective Date, immediately after distributions hereunder have been made to or for the benefit of holders of Claims, all instruments, certificates, and other documents evidencing the Interests in the Debtors shall be cancelled and the obligations of the Debtors or the Reorganized Debtors in any way related thereto (except any obligations provided for under this Plan) shall be discharged.

10.11 Substantive Consolidation of ASARCO and the Subsidiary Debtors (Other than Covington) and Alternatives Thereto.

(a) On the Effective Date, the Estates of the Subsidiary Debtors (other than Covington) shall be substantively consolidated with and into ASARCO, with the surviving entity being ASARCO. As a result of the substantive consolidation of these Estates, (1) all Intercompany Claims of ASARCO and the Subsidiary Debtors (other than between ASARCO and Covington) not otherwise resolved or disposed of pursuant to this Plan are eliminated; (2) all assets and liabilities, including any obligations or guarantees of the Subsidiary Debtors (other than Covington) become the assets and liabilities of ASARCO; and (3) each Proof of Claim filed against any of the Subsidiary Debtors (other than Covington) is deemed filed against and an obligation of ASARCO.

(b) Alternatively, the Debtors reserve the right to consolidate the Subsidiary Debtors (other than Covington) into ASARCO on the Effective Date, pursuant to section 1123(a)(5)(C) of the Bankruptcy Code. Holders of Claims in impaired Classes shall vote on a Debtor-by-Debtor basis so that their votes may be counted in this fashion should the Debtors elect voluntary consolidation rather than substantive consolidation.

(c) As another alternative, the Debtors reserve the right to proceed with this Plan as to only ASARCO, Covington, ASARCO Master, SPHC, AR Sacaton, and the Asbestos Subsidiary Debtors. Thereafter, the Subsidiary Debtors (other than Covington, ASARCO Master, SPHC, AR Sacaton, and the Asbestos Subsidiary Debtors) would either file a proposed plan under chapter 11 of the Bankruptcy Code or convert their cases to liquidation cases under chapter 7 of the Bankruptcy Code.

10.12 Issuance of Interests in Reorganized ASARCO. On or after the Effective Date, Reorganized ASARCO shall issue interests in Reorganized ASARCO for distribution in accordance with the terms of this Plan, which shall represent all of the equity interests in Reorganized ASARCO as of the Effective Date. They shall be held by the Plan Administrator for the benefit of holders of Class 3 and Class 4 Claims. The issuance of interests in Reorganized ASARCO under this Plan shall be authorized under section 1145 of the Bankruptcy Code as of the Effective Date without further act or action by any Person, except as may be required by Reorganized ASARCO's organizational documents or applicable law, regulation, order, or rule; and all documents evidencing such issuance shall be executed and delivered as provided for in this Plan.

10.13 Issuance of Interests in Reorganized Covington. On or after the Effective Date, Reorganized Covington shall issue interests in Reorganized Covington for distribution in accordance with the terms of this Plan, which shall represent all of the equity interests in Reorganized Covington as of the Effective Date. The Asbestos Trust shall own 100 percent of the interests in Reorganized Covington and shall be entitled to receive periodic dividends and other distributions from Reorganized Covington. The issuance of interests in Reorganized Covington pursuant to distributions under this Plan shall be authorized under section 1145 of the Bankruptcy Code as of the Effective Date without further act or action by any Person, except as may be required by Reorganized Covington's organizational documents or applicable law,

regulation, order, or rule; and all documents evidencing such issuance shall be executed and delivered as provided for in this Plan.

10.14 Charter Documents of the Reorganized Debtors. The charter documents of each of the Reorganized Debtors shall be amended, as of the Effective Date, to prohibit the issuance of nonvoting equity securities. **Exhibit 13** attached hereto contains forms of the amended charter documents.

10.15 Management of the Reorganized Debtors. On the Effective Date, (a) the current directors and officers of ASARCO and the Subsidiary Debtors shall be removed (without the necessity of further action) and shall have no further obligations; (b) to the fullest extent permitted by applicable law, the rights, powers, and duties of the directors and officers of Reorganized ASARCO shall vest in the Plan Administrator, and the Plan Administrator or the Plan Administrator's designee shall be the presiding officer and the sole member of Reorganized ASARCO (unless and until additional officers and managers are appointed pursuant to the Plan Administration Agreement); and (c) the Asbestos Trustees shall appoint the persons to serve as officers and directors of Reorganized Covington.

10.16 Reorganized Debtors' Name Changes. On the Effective Date, Reorganized ASARCO shall change its name to ASARCO Administration Company, LLC, and Reorganized Covington shall change its name to The Covington Company, LLC.

10.17 Continued Corporate Existence and Business Operations of the Reorganized Debtors. Except as otherwise provided in this Article X, the Reorganized Debtors shall continue their existences as separate entities after the Effective Date for the purposes of operating their businesses and satisfying their obligations under this Plan, in accordance with applicable law and pursuant to their applicable organizational documents. The Plan Administrator shall, in accordance with the Plan Administration Agreement, operate the business of Reorganized ASARCO, and the officers and directors of Reorganized Covington shall, in accordance with the charter documents of Reorganized Covington, operate the business of Reorganized Covington. On or after the Effective Date, the Plan Administrator and the officers and directors of Reorganized Covington, as applicable, may take such action as permitted by applicable law and each of the Reorganized Debtors' organizational documents, as they may determine is reasonable and appropriate, including to cause (a) each Reorganized Debtor's legal name to be changed; (b) the closure of the Reorganized Debtors' bankruptcy cases (upon consultation with the Liquidation Trustee, the SCC Litigation Trustee, and the Asbestos Trustees); or (c) the Reorganized Debtors to be engaged in such businesses or activities as are appropriate to their respective corporate purposes.

10.18 Plan Sponsor's Assumption of Certain Environmental Liabilities. Pursuant to section 3.3(e) of the New Plan Sponsor PSA, and except as provided in section 3.4(f), (g), and (h) thereof, from and after the Closing, the Plan Sponsor shall assume, pay, perform, and discharge when due the Assumed Environmental Liabilities (as such term is defined in the New Plan Sponsor PSA).

10.19 Revesting of Assets.

(a) On the Effective Date, all of the Debtors' rights, title, and interests in and to the Sold Assets shall vest in the Plan Sponsor, free and clear of any Liens, claims, interests, and encumbrances, other than Permitted Liens and the Assumed Liabilities pursuant to section 363(f) of the Bankruptcy Code (including, without limitation, any right of setoff, recoupment, netting, or deduction).

(b) Except as otherwise expressly provided in the Plan or the Plan Documents, on the Effective Date, the ASARCO Residual Assets, including, without limitation, the Plan Sales Proceeds, the Distributable Cash, and the Vested Causes of Action, shall vest in Reorganized ASARCO, which may operate free of any restrictions imposed by the Bankruptcy Code or by the Bankruptcy Court.

(c) The Covington Residual Assets, including, without limitation, the Madera Property, shall vest in Reorganized Covington, which may operate free of any restrictions imposed by the Bankruptcy Code or by the Bankruptcy Court.

10.20 Vesting and Enforcement of Causes of Action.

(a) The Vested Causes of Action (as listed in **Exhibit 14-A** attached hereto) shall vest in Reorganized ASARCO. The Plan Administrator (after consultation with and approval by the Plan Administration Committee) shall be authorized to prosecute, compromise and settle, abandon, release, or dismiss the Vested Causes of Action, without need for approval by the Bankruptcy Court. After the Effective Date, the Plan Administrator may, in the Plan Administrator's discretion, file a notice of discharge with a copy of the Confirmation Order in any lawsuits in which ASARCO or any other Debtor was named as a defendant prior to the Effective Date.

(b) The Debtors' respective rights, title, and interests in and to the Liquidation Trust Claims (as listed in **Exhibit 14-B** attached hereto) shall vest in the Liquidation Trustee. The Liquidation Trust may prosecute, compromise and settle, abandon, release, or dismiss the Liquidation Trust Claims, without need for approval by the Bankruptcy Court.

(c) The Debtors' respective rights, title, and interests in and to the SCC Litigation Trust Claims (as listed in **Exhibit 14-C** attached hereto) shall vest in the SCC Litigation Trustee. The SCC Litigation Trust may prosecute, compromise and settle, abandon, release, or dismiss the SCC Litigation Trust Claims, without need for approval by the Bankruptcy Court.

(d) The Debtors' respective rights, title, and interests in and to the causes of action listed in **Exhibit 14-D** attached hereto shall vest in the Asbestos Trust. The Asbestos Trust may prosecute, compromise and settle, abandon, release, or dismiss such causes of action, without need for approval by the Bankruptcy Court.

10.21 Dismissal of Certain Litigation.

(a) Adversary Proceeding No. 05-02030 filed by the Asbestos Subsidiary Debtors against Anne M. Aaberg, *et al.*, and Adversary Proceeding No. 06-02056, filed by ASARCO, et al., against Anne M. Aaberg, *et al.*, both pending in the Bankruptcy Court, shall be dismissed on the Effective Date.

(b) The Trade Creditor Preference Claims (as listed in **Exhibit 14-E** attached hereto) shall be waived and dismissed with prejudice 20 days after the Claim Objection Deadline; *provided, however*, that if a defendant to a Trade Creditor Preference Claim has filed a Proof of Claim and that Proof of Claim is the subject of a pending objection as of the Claim Objection Deadline, such Trade Creditor Preference Claim shall not be dismissed and shall vest in Reorganized ASARCO.

10.22 Further Authorizations. The Debtors, the Reorganized Debtors, the Plan Administrator, the Trustees, or the FCR may seek such orders, judgments, injunctions, and rulings that any one or more of them deem necessary to further carry out the intentions and purposes of, and give full effect to the provisions of, this Plan.

10.23 Effectuating Documents and Further Transactions. The chief executive officer, president, chief financial officer, general counsel, secretary, treasurer, any vice president, or managing member (if applicable) of each Debtor or Reorganized Debtor shall be authorized, to the extent consistent with the respective Debtor's constituent documents, to execute, deliver, file, or record such contracts, instruments, settlement agreements, releases, indentures, and other agreements or documents and to take or direct such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of this Plan. The secretary or any assistant secretary of each Debtor or Reorganized Debtor shall be authorized to certify or attest to any of the foregoing actions.

10.24 Corporate Action. All matters provided for under this Plan involving the corporate structure of a Debtor or a Reorganized Debtor, or any corporate action to be taken by or required of such Debtor or Reorganized Debtor, shall be deemed to have occurred and be effective as provided herein and shall be authorized and approved in all respects without any requirement for further action by the holders of interests in, or directors of, any of such entities.

10.25 Execution of Plan Documents. On the Effective Date, Reorganized ASARCO and other parties thereto shall execute and deliver the Plan Documents, as applicable.

10.26 Approval of Asbestos Insurance Settlement Agreements. Confirmation of this Plan shall constitute approval pursuant to Bankruptcy Rule 9019 of all Asbestos Insurance Settlement Agreements executed as of the Confirmation Date (which are listed in **Exhibit 7** to this Plan, which may be amended, supplemented, or modified at any time prior to the Confirmation Date) and shall cause such Asbestos Insurance Settlement Agreements, and all terms within such agreements, to be fully binding upon all parties to such agreements (including, without limitation, their successors and assigns), as evidenced by entry of the Confirmation Order.

10.27 Approval of Mission Mine Settlement Agreement. Confirmation of this Plan shall cause the Mission Mine Settlement Agreement (which is attached as **Exhibit 15** to this Plan, and which has been approved by the Bankruptcy Court pursuant to a motion filed under Bankruptcy Rule 9019) to be binding upon all landowners and allottees who own interests in the lands affected by the Mission Mine Settlement Agreement, as evidenced by entry of the Confirmation Order.

ARTICLE XI

INJUNCTIONS, RELEASES, AND DISCHARGE

11.1 Discharge and Release. Except as otherwise expressly provided in this Plan, the rights afforded in this Plan and the treatment of all Claims, Demands, and Interests shall be in exchange for and in complete satisfaction, discharge, and release of all Claims, Demands, and Interests of any nature whatsoever, against the Debtors or their respective Estates, assets, properties, or interests in property. Except as otherwise provided herein, on the Effective Date, all Claims and Demands against and Interests in the Debtors shall be satisfied, discharged, and released in full.

11.2 Discharge Injunction. *Except as otherwise expressly provided in this Plan, the discharge and release set forth in Article 11.1 shall operate as an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (a) any Claim and Demand discharged and released in Article 11.1, and (b) any cause of action, whether known or unknown, based on the same subject matter as any Claim or Demand discharged and released in Article 11.1.*

11.3 The Permanent Channeling Injunction and the Asbestos Insurance Company Injunction. In order to supplement the injunctive effect of the Discharge Injunction, and pursuant to the exercise of the legal and equitable jurisdiction and power set forth in section 524(g) or 105(a) of the Bankruptcy Code (or both), the Confirmation Order shall provide for issuance of the following injunctions to take effect as of the Effective Date:

(a) *Permanent Channeling Injunction*.

(1) *Terms. In order to induce, preserve, and promote the settlements contemplated by and provided for in this Plan, and pursuant to section 524(g) or 105(a) of the Bankruptcy Code (or both), all Unsecured Asbestos Personal Injury Claims and Demands shall be channeled to the Asbestos Trust for a remedy under the Asbestos TDP, and all holders of Unsecured Asbestos Personal Injury Claims and Demands and all Entities which have held or asserted, which hold or assert, or which may in the future hold or assert, any Unsecured Asbestos Personal Injury Claim or Demand shall be permanently and forever stayed, restrained, and enjoined from taking any action against any ASARCO Protected Party (or any property or interest in property of an ASARCO Protected Party) with respect to such Unsecured Asbestos Personal Injury Claim or Demand, including, without limitation, for the purpose of directly or indirectly obtaining a judgment, collecting, recovering, or receiving payments, satisfaction, or recovery with*

respect to such Unsecured Asbestos Personal Injury Claim or Demand, including, without limitation:

(A) *commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including a judicial, arbitration, administrative, or other proceeding) in any forum with respect to any Unsecured Asbestos Personal Injury Claim or Demand against any ASARCO Protected Party, or against the property or interests in property of any ASARCO Protected Party;*

(B) *enforcing, levying, attaching (including by prejudgment attachment), collecting, or otherwise recovering, by any manner or means, whether directly or indirectly, any judgment, award, decree, or other order against any ASARCO Protected Party, or against the property or interests in property of any ASARCO Protected Party, with respect to any Unsecured Asbestos Personal Injury Claim or Demand;*

(C) *creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Lien of any kind against any ASARCO Protected Party, or the property or interests in property of any ASARCO Protected Party, with respect to any Unsecured Asbestos Personal Injury Claim or Demand;*

(D) *except as otherwise specifically provided in this Plan, asserting or accomplishing any setoff, right of subrogation, indemnity, contribution, reimbursement, or recoupment of any kind in any manner, directly or indirectly, against any obligation due any ASARCO Protected Party, or against the property or interests in property of any ASARCO Protected Party, with respect to any Unsecured Asbestos Personal Injury Claim or Demand; and*

(E) *proceeding or taking any action, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of this Plan, the Plan Documents, or the Asbestos Trust Documents relating to any Unsecured Asbestos Personal Injury Claim or Demand.*

(2) *Reservations. Notwithstanding anything to the contrary above or in this Plan, neither this Permanent Channeling Injunction nor this Plan shall enjoin, alter, diminish, or impair:*

(A) *the rights of Entities to the treatment accorded them under Articles II and IV of this Plan, as applicable, including the rights of Entities with Unsecured Asbestos Personal Injury Claims or Demands to assert such Unsecured Asbestos Personal Injury Claims or Demands in accordance with the Asbestos TDP;*

(B) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment of Asbestos Trust Expenses against the Asbestos Trust;*

(C) *the enforceability of any of the Asbestos Insurance Policies or any Asbestos Insurance Settlement Agreement;*

(D) *the rights of the Asbestos Trust, if any, with regard to any Asbestos Insurance Company that is not a Settling Asbestos Insurance Company (with the Asbestos Trust being, and deemed to be, for all purposes of insurance and indemnity, the successor to the Debtors in respect of all Asbestos Personal Injury Claims and Demands and other recoveries from an Asbestos Insurance Company, in its capacity as such); or*

(E) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment against an Asbestos Insurance Company that is not an ASARCO Protected Party unless otherwise enjoined by order of the Bankruptcy Court or the District Court, or estopped by a provision of this Plan.*

(b) *Asbestos Insurance Company Injunction.*

(1) *Terms. In order to preserve and promote the property of the Estate, as well as the settlements contemplated by and provided for in this Plan, and to supplement where necessary the injunctive effect of the discharge and releases provided for in this Plan, pursuant to section 105(a) of the Bankruptcy Code, all Entities which have held or asserted, which hold or assert, or which may in the future hold or assert any Claim, Demand, or cause of action (including, without limitation, any Unsecured Asbestos Personal Injury Claim or Demand or any Claim for or respecting any Asbestos Trust Expense) against a Settling Asbestos Insurance Company based upon, relating to, arising out of, attributable to, or in any way connected with any Unsecured Asbestos Personal Injury Claim or Demand, Asbestos In-Place Insurance Coverage, or an Asbestos Insurance Policy, shall be permanently and forever stayed, restrained, and enjoined from taking any action against such Settling Asbestos Insurance Company for the purpose of directly or indirectly collecting, recovering, or receiving payments, satisfaction, or recovery with respect to any such Claim, Demand, or cause of action, including without limitation:*

(A) *commencing, conducting, or continuing, in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including a judicial, arbitration, administrative, or other proceeding) in any forum with respect to any such Claim, Demand, or cause of action against any Settling Asbestos Insurance Company, or against the property or interests in property of any Settling Asbestos Insurance Company;*

(B) *enforcing, levying, attaching, collecting, or otherwise recovering, by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against any Settling Asbestos Insurance Company or against the property or interests in property of any Settling Asbestos Insurance Company with respect to any such Claim, Demand, or cause of action;*

(C) *creating, perfecting, or otherwise enforcing, in any manner, directly or indirectly, any Lien of any kind against any Settling Asbestos Insurance Company, or the property or interests in property of any Settling Asbestos Insurance Company with respect to any such Claim, Demand, or cause of action;*

(D) *except as otherwise specifically provided in this Plan, asserting or accomplishing any setoff, right of subrogation, indemnity, contribution, reimbursement, or recoupment of any kind and in any manner, directly or indirectly, against any obligation due any Settling Asbestos Insurance Company, or against the property or interests in property of any Settling Asbestos Insurance Company with respect to any such Claim, Demand, or cause of action; and*

(E) *taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan Documents relating to such Claim, Demand, or cause of action.*

(2) *Reservations. Notwithstanding anything to the contrary above or in this Plan, neither this Asbestos Insurance Company Injunction nor the Plan shall enjoin, alter, diminish, or impair:*

(A) *the rights of Entities to the treatment accorded them under Articles II and IV of this Plan, as applicable, including the rights of Entities with Unsecured Asbestos Personal Injury Claims or Demands to assert Unsecured Asbestos Personal Injury Claims or Demands against the Asbestos Trust in accordance with the Asbestos TDP;*

(B) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment of Asbestos Trust Expenses against the Asbestos Trust;*

(C) *the enforceability of any of the Asbestos Insurance Policies or any Asbestos Insurance Settlement Agreement;*

(D) *the rights of the Asbestos Trust, if any, with regard to any Asbestos Insurance Company that is not a Settling Asbestos Insurance Company (with the Asbestos Trust being, and deemed to be, for all purposes of insurance and indemnity, the successor to the Debtors in respect of all Asbestos Personal Injury Claims, Demands, and other recoveries from an Asbestos Insurance Company, in its capacity as such);*

(E) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment against an Asbestos Insurance Company that is not an ASARCO Protected Party unless otherwise enjoined by order of the Bankruptcy Court or the District Court or estopped by a provision of this Plan; or*

(F) *the rights of the Asbestos Trust or the Asbestos Trustees to seek relief from the Asbestos Insurance Company Injunction should a Settling Asbestos Insurance Company fail to fulfill all obligations under an Asbestos Insurance Settlement Agreement.*

(c) *Permanent Channeling Injunction and the Marshalling of Asbestos Trust Assets*.

If any court in the future shall modify, vacate, or in any way limit or restrict the effect of the Permanent Channeling Injunction, whether such injunction was issued pursuant to section 524(g) of the Bankruptcy Code or any other applicable provision of the Bankruptcy Code, all holders of Unsecured Asbestos Personal Injury Claims and Demands and all Entities which have held or asserted, which hold or assert, or which may in the future hold or assert, any Unsecured Asbestos Personal Injury Claim or Demand shall, as a matter of equity, first be required to exhaust any and all of the Asbestos Trust Assets before pursuing any action against any of the ASARCO Protected Parties or the Sold Assets.

11.4 Limitation of Injunctions. Notwithstanding any other provision of this Plan to the contrary, the releases set forth in Article 11.1 and the Injunctions set forth in Article 11.2 and 11.3, respectively, shall not serve to satisfy, discharge, release, or enjoin Claims by any Entity against the Asbestos Trust for payment of (a) Unsecured Asbestos Personal Injury Claims and Demands in accordance with the Asbestos TDP or (b) Asbestos Trust Expenses, and such releases and Injunctions shall not enjoin Reorganized ASARCO or the Asbestos Trust from enforcing any Asbestos Insurance Policy or any Asbestos Insurance Settlement Agreement.

11.5 Exoneration and Reliance. To the fullest extent allowable by law, no ASARCO Protected Party or the USW shall be liable (other than for criminal liability, willful misconduct, gross negligence, bad faith, or *ultra vires* acts) to any holder of a Claim, Demand, or Interest or any other Entity with respect to any action, omission, forbearance from action, decision, or exercise of discretion taken from the Petition Date through the Effective Date in connection with (a) the management or operation of any of the Debtors or the discharge of their duties under the Bankruptcy Code; (b) the solicitation, negotiation, or implementation of any of the transactions provided for, or contemplated in, this Plan or the other Plan Documents, including, without limitation, the marketing of the Plan Assets, the Plan Sponsor selection process, the selection of the Plan Sponsor, and the sale of the Plan Assets to the Plan Sponsor; (c) any action taken in connection with either the enforcement of the rights of any Debtor against any Entities or the defense of Claims or Demands asserted against any such Debtor with regard to the Reorganization Cases; (d) any action taken in the negotiation, formulation, preparation, development, proposal, solicitation, disclosure, Confirmation, or implementation of this Plan, other Plan Documents, or related agreements, instruments, or other documents; (e) the administration of this Plan or the assets and property to be distributed pursuant to this Plan; or (f) the administration of any of the Estates. Each ASARCO Protected Party and the USW shall be deemed to have participated in each of the Reorganization Cases in good faith and in compliance with all applicable provisions of the Bankruptcy Code. Nothing in this Article 11.5 shall prevent the enforcement of the terms of this Plan.

11.6 Fee Shifting. Except to the extent prohibited by Article 12.5 or the Insurance Neutrality Order, if any holder of a Claim, Demand, or Interest or if any Entity other than a Governmental Unit brings an action, suit, or proceeding against any ASARCO Protected Party (or any property or interest in property of any ASARCO Protected Party) by reason of any action or inaction described in Article 11.5 hereof or in any other way arising from or related to any of the Reorganization Cases, the Debtors, or the Trusts (other than as expressly provided in this Plan or the Asbestos TDP), and does not prevail in any such action, suit, or proceeding, such holder of a Claim, Demand, or Interest, or other Entity shall be liable for and must pay the reasonable attorneys' fees and costs of such ASARCO Protected Party, and as a condition to going forward with such action, suit, or proceeding, such holder of a Claim, Demand or Interest, or other Entity shall, at the outset, provide appropriate proof and assurances of his, her, or its capacity to pay the ASARCO Protected Party's reasonable attorneys' fees and costs in the event the holder or other Entity fails to prevail. In order for a holder of a Claim, Demand, or Interest, or other Entity to be considered a prevailing party, such party must be awarded an enforceable judgment on the merits that constitutes a material alteration of the legal relationship between such party and an ASARCO Protected Party, and does not include a judgment that awards nominal damages. This Article 11.6 does not impose any obligation on any ASARCO Protected Party to pay, or provide appropriate proof and financial assurance of his, her, or its capacity to pay, reasonable attorneys' fees and costs in the event that the holder of a Claim, Demand, or Interest or other Entity prevails in an action, suit, or proceeding that is filed against such ASARCO Protected Party.

11.7 Additional Releases. To the fullest extent allowable by law, on, and as of, the Effective Date and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, each ASARCO Protected Party that is not a Debtor (acting in any capacity whatsoever) shall be forever released and discharged from any and all Claims, Demands, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities through the Effective Date, (including all Claims and Demands based on or arising out of facts or circumstances that existed as of or prior to Confirmation of this Plan in any of the Reorganization Cases, including, without limitation, Claims and Demands based on breach of contract, negligence, or strict liability, and further including, without limitation, any derivative claims asserted on behalf of any of the Debtors or claims based on third party beneficiary status, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, that any of the Debtors, their respective Estates, or any of the Reorganized Debtors would have been legally entitled to assert in their own right, whether individually or collectively) which any of the Debtors, their respective Estates, or any of the Reorganized Debtors may have against any of them in any way related to any of the Reorganization Cases or any of the Debtors (or their respective predecessors or Affiliates); *provided, however*, that nothing in this Article 11.7 shall impair or otherwise affect the rights of the Asbestos Trust or Reorganized ASARCO to prosecute any Asbestos Insurance Action, to pursue any Asbestos Insurance Recovery, or to assert any claim, debt, obligation, cause of action, or liability for payment against an Asbestos Insurance Company based on or arising from an Asbestos Insurance Policy. No ASARCO Protected Party shall be responsible for any obligations of any of the Debtors except those expressly assumed by those parties in this Plan (and only to the extent so assumed). The releases provided for in this Article 11.7 shall not

extend to any claims by any Governmental Unit with respect to criminal liability, willful misconduct, gross negligence, bad faith, or *ultra vires* acts.

11.8 Exculpation Injunction and Indemnities.

(a) *Exculpation Injunction*.

All Entities are permanently enjoined from initiating a suit against any ASARCO Protected Party, the USW, their respective successors or assigns, or their respective assets, properties, or interests in property regarding any Claims, Demands, or any other right to legal or equitable relief (regardless of whether such right can be reduced to a right to payment or whether or not the facts of or legal bases therefore were known or existed prior to the Effective Date) that are released under Article 11.5, 11.7, or 11.9 hereof; *provided, however*, that this injunction shall not apply to Claims based solely upon willful misconduct, gross negligence, or bad faith, or any criminal liability, or liability for *ultra vires* acts. Any such action by a non-Governmental Unit shall be brought in the Bankruptcy Court within 90 days after the Effective Date. Nothing in this Article 11.8 shall prevent the enforcement of the terms of this Plan.

(b) *Indemnities*.

Reorganized ASARCO shall defend, hold harmless, and indemnify to the fullest extent permitted by applicable law each of the Protected Officers and Directors and other appropriate parties as designated by ASARCO in its sole discretion prior to the conclusion of the Confirmation Hearing with respect to any Claim, Demand, or liability arising from any action, failure or omission to act, or other matter related to any of the Debtors or any of the Reorganization Cases through and including the Effective Date. If and whenever any indemnified party is, or is threatened to be made, a party to any action, suit, arbitration, investigation, or other proceeding that might give rise to a right of indemnification under this Article 11.8, Reorganized ASARCO shall, to the fullest extent permitted by applicable law, reimburse that indemnified party all expenses (including attorneys' fees) reasonably incurred by or on behalf of that indemnified party in connection therewith within 60 days after Reorganized ASARCO receives a statement or statements from that indemnified party requesting reimbursement from time to time, whether prior to or after final disposition of such action, suit, arbitration, investigation, or other proceeding. In furtherance of these obligations, on the Effective Date, the Plan Administrator shall establish an escrow account to address any of Reorganized ASARCO's indemnification obligations under this Article 11.8 or under any order entered by the Bankruptcy Court authorizing and approving ASARCO's grant of indemnification, advancement of expenses, and related rights to ASARCO's current officers, directors, employees, or other Persons. On the Effective Date (or as soon thereafter as is reasonably practicable), the Indemnification Escrow shall be funded in the amount of $20 million by ASARCO, Reorganized ASARCO, or the Plan Administrator, as the case may be. Prior to the Effective Date, ASARCO shall purchase an errors-and-omissions insurance policy for the benefit of each of the indemnified parties (including both Persons with indemnification rights arising under this Plan and under a separate order of the Bankruptcy Court) in an amount equal to the errors-and-omissions coverage

currently maintained by the Debtors. The term of the policy shall be six years following the Effective Date. In addition, prior to the Effective Date, ASARCO shall exercise the six-year run-off option available under its existing directors-and-officers liability insurance. Each of the Protected Officers and Directors shall be entitled to retain independent counsel in connection with any Claim or liability asserted against him in connection with his service in the Reorganization Cases and to assist him with any issues arising in connection with the termination of his services as officer or director of any Debtor. The fees and expenses of such counsel shall be paid out of the Indemnification Escrow.

As soon as practicable after the sixth year anniversary of the Effective Date or upon such later date as the Plan Administrator deems it appropriate, the Plan Administrator shall distribute any funds remaining in the Indemnification Escrow to the Liquidation Trust for distribution in accordance with the terms and conditions of the Liquidation Trust Agreement.

11.9 Consensual Releases by Holders of Claims, Demands and Interests. *To the fullest extent allowable by law, on the Effective Date, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, holders of Claims and Interests voting to accept this Plan and holders of Demands shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each ASARCO Protected Party that is not a Debtor from any and all Claims, Demands, Interests, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever relating to the Debtors, the Debtors' property, events giving rise to the Reorganization Cases, the Reorganization Cases, the Original Plan Sponsor PSA, or the Plan, including, without limitation, Claims and Demands based on breach of contract, negligence, or strict liability, and including, without limitation, any derivative claims asserted on behalf of any Debtor, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, that such holder of a Claim, Demand, or Interest would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, (a) any of the Debtors; (b) any of the Reorganization Cases; (c) the subject matter of, or the transactions or events giving rise to, any Claim, Demand, or Interest; (d) the business or contractual arrangements between any Debtor and any ASARCO Protected Party; (e) the restructuring of Claims, Demands, and Interests prior to or in any of the Reorganization Cases; (f) the negotiation, formulation, or preparation of this Plan, the Plan Documents or related agreements, instruments, or other documents; or (g) any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding the foregoing, this release shall not apply to Claims, Demands, or liabilities arising out of or relating to any action or omission of an ASARCO Protected Party that constitutes a failure to act in good faith, or where such action or omission constitutes willful misconduct or gross negligence; provided, however, that nothing in this Article 11.9 shall impair or otherwise affect the rights of the Asbestos Trust or Reorganized ASARCO to prosecute any Asbestos Insurance Action, to pursue any Asbestos Insurance Recovery, or to assert any claim, debt, obligation, cause of action, or liability for payment against an Asbestos Insurance Company based on or arising from an Asbestos Insurance Policy.*

11.10 Release of Fraudulent Transfer Claims Against Settling Asbestos Insurance Companies. Except as otherwise provided in this Article 11.10, all fraudulent transfer claims against any Settling Asbestos Insurance Company arising under sections 544(b), 548, or 550 of the Bankruptcy Code or otherwise with respect to the Claims, rights, or interests released under the Asbestos Insurance Settlement Agreement shall be released, and the Asbestos Trust shall have no authority to bring any fraudulent transfer actions arising under any applicable state or other non-bankruptcy law against any Settling Asbestos Insurance Company with respect to the Claims, rights, and interests released under the Asbestos Insurance Settlement Agreement. This Article 11.10 does not apply to any of the existing Avoidance Actions against certain Asbestos Insurance Companies that entered into prepetition settlement agreements, as listed on **Exhibit 14-D** hereto.

11.11 Limitations Regarding Governmental Units and the U.S. Trustee.

(a) The releases, discharges, satisfactions, exonerations, exculpations, and injunctions provided under this Plan and the Confirmation Order shall not apply to any liability to a Governmental Unit arising after the Effective Date; *provided, however*, that no Governmental Unit shall assert any Claim or other cause of action under Environmental Law against the entities administering this Plan for the benefit of the creditors, the assets or funds being held by the entities administering this Plan for the benefit of the creditors, or the Reorganized Debtors based on or arising from acts, omissions, or conduct of the Debtors prior to February 1, 2009 (including, without limitation, continuing releases related to acts, omissions, or conduct prior to February 1, 2009); *except provided further, however*, that nothing in this Plan or the Confirmation Order (1) precludes the enforcement of the Hayden Settlement Agreement, the Mission Mine Settlement Agreement, or the Arizona NRD Settlement Agreement as provided therein; (2) shall prevent the governments or Environmental Custodial Trusts from recovering under any confirmed plan on any Allowed Claim or payment due with respect to any site listed in **Exhibit 12** to this Plan or for any Allowed Claim for a permit fee or similar assessment or charge owed to the governments under Environmental Law; (3) releases, discharges, precludes, or enjoins the enforcement of any liability to a Governmental Unit under Environmental Law that any Entity is subject to as the current owner or current operator of property after the Effective Date; (4) releases, discharges, precludes, or enjoins any Allowed Claim or liability of a Debtor's Estate as the current owner or current operator of property between February 1, 2009 and the Effective Date; (5) for sites covered by an approved Environmental Custodial Trust Settlement Agreement, permits the governments or Environmental Custodial Trusts to recover more than permitted under the approved Environmental Custodial Trust Settlement Agreement, nor does it affect the covenants not to sue in the Environmental Custodial Trust Settlement Agreements or the reservation of rights; (6) releases, discharges, precludes, or enjoins any on-site liability of a Debtor's Estate as the owner, operator, or lessee of the Ray mine, the Mission Mine, the Amarillo copper smelter, the Tucson office, or the Ventura Warehouse; (7) precludes enforcement by the United States or a state of any requirements under an Environmental Custodial Trust Agreement against an Environmental Custodial Trustee; or (8) releases, discharges, precludes, or enjoins the enforcement of any liability to a Governmental Unit under Environmental Law for criminal liability (except to the extent that such liabilities are dischargeable).

(b) Notwithstanding anything to the contrary, nothing in this Article XI shall apply to the rights of the U.S. Trustee to fulfill his obligations under the Bankruptcy Code and title 28 of the United States Code or the obligations of the Debtors or the Reorganized Debtors to the U.S. Trustee.

11.12 Limitation Regarding Flow Through Bonds. In accordance with the SPT Settlement Agreement, and except as otherwise provided in Article 8.9 above in regards to SPT Bond Nos. 394729 and 403998, ASARCO's obligations under and relating to the Flow Through Bonds and the SPT Indemnity Agreement as it relates to the Flow Through Bonds shall not be discharged by Confirmation of this Plan or upon ASARCO's emergence from the Reorganization Cases.

11.13 Interpretation Regarding Article XI and the Original Plan Sponsor PSA. Notwithstanding anything else contained herein, for the purpose of construing whether the Plan Sponsor, the Guarantor, or any of their respective Affiliates shall be entitled to any of the protections, or other rights and benefits afforded in any release, exoneration, exculpation, injunction, indemnity, fee shifting provision, or any other protection outlined in this Article XI, upon such provisions becoming effective, no action taken by the Plan Sponsor, the Guarantor, or any of their respective Affiliates in connection with the Original Plan Sponsor PSA (including its renegotiation or any alleged breach, termination, or repudiation thereof) shall be interpreted as, construed as, or deemed to have been, an act taken other than in good faith, or to have been an act constituting willful misconduct.

11.14 Discharge, Injunctions, and Releases Integral to this Plan. The discharge, Injunctions, and releases set forth in this Article XI are integral parts of this Plan.

11.15 Limitations on Release Provisions With Respect to Employee Benefit Plans. Notwithstanding any provision in this Article, or otherwise in the Plan Documents, or in the Confirmation Order, no claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities whatsoever against any entity with respect to statutory liabilities arising under ERISA concerning the Employee Benefit Plans, as defined under 29 U.S.C. §1002(3), shall be released, exculpated, discharged, enjoined, or otherwise affected by the Plan Documents, nor shall the entry of the Confirmation Order constitute the approval of any release, exculpation, discharge, injunction, or other impairment of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities whatsoever against any entity with respect to statutory liabilities arising under ERISA concerning Employee Benefit Plans.

ARTICLE XII

MATTERS INCIDENT TO PLAN CONFIRMATION

12.1 Term of Certain Injunctions and Automatic Stay.

(a) All of the Injunctions and stays provided for, in, or in connection with these Reorganization Cases, whether pursuant to section 105, section 362, section 524, or any other provision of the Bankruptcy Code, other applicable law, or court order, in effect

immediately prior to Confirmation shall remain in full force and effect until the Injunctions become effective and thereafter if so provided by this Plan, the Confirmation Order, or by their own terms. In addition, on and after the Confirmation Date, the Debtors may seek such further orders as they may deem necessary to preserve the status quo during the time between the Confirmation Date and the Effective Date.

(b) Each of the Injunctions shall become effective on the Effective Date and shall continue in effect at all times thereafter, and may not be vacated, amended, or modified after the Effective Date, except as otherwise provided herein. Notwithstanding anything to the contrary contained in this Plan, all actions in the nature of those to be enjoined by the Injunctions shall be enjoined during the period between the Confirmation Date and the Effective Date.

12.2 No Liability for Tax Claims. Unless a taxing authority has asserted a Claim against a Debtor prior to the applicable Bar Date, no Claim of such taxing authority shall be Allowed against any of the Debtors or Reorganized Debtors for taxes, penalties, interest, additions to tax, or other charges arising out of the failure, if any, of a Debtor, Reorganized Debtor, or any other Entity to have paid taxes or to have filed any tax return (including, without limitation, any income tax return or franchise tax return) in or for any prior year or arising out of an audit of any return for a period before the Petition Date.

12.3 No Successor Liability.

(a) Except as otherwise expressly provided in this Plan, including this Article 12.3, no ASARCO Protected Party shall be deemed a successor or successor in interest to the Debtors or to any Entity for which the Debtors may be held legally responsible, by reason of any theory of law or equity, and no ASARCO Protected Party shall be responsible for any successor or transferee liability of any kind or character, except to the extent that the Asbestos Trust, Reorganized ASARCO, or both, is or are the successor or successor in interest to ASARCO solely with regard to the Asbestos Insurance Policies, the Asbestos Insurance Settlement Agreements, the Asbestos In-Place Insurance Coverage, the Asbestos Insurance Actions, or the Asbestos Insurance Recoveries.

(b) Except as otherwise expressly provided in this Plan, no ASARCO Protected Party shall have any obligations to perform, pay, indemnify creditors for, or otherwise have any responsibilities for any liabilities or obligations of any of the Debtors or the Reorganized Debtors, whether arising before, on, or after the Confirmation Date.

12.4 Asbestos Insurance Actions and Preservation of Insurance Claims and Defenses. Subject to the remaining terms of this Article 12.4 and the terms of the Confirmation Order, Asbestos Insurance Actions and Asbestos Insurance Recoveries shall be preserved pursuant to this provision for pursuit by the Asbestos Trust for the benefit of Asbestos Trust Beneficiaries; *provided*, *however*, that notwithstanding the foregoing, ASARCO reserves the right to retain the Asbestos Insurance Recoveries and pay the net proceeds of such recoveries (after the deduction of the reasonable and necessary unreimbursed costs and expenses associated with obtaining such proceeds) to the Asbestos Trust if, after consultation with the Asbestos Trust, it is determined that such retention better preserves these assets. On or after the Effective Date, Reorganized ASARCO and the Asbestos Trustees, as the case may be, shall be entitled, in their sole and

complete discretion, to pursue, compromise, or settle any and all Asbestos Insurance Actions and Asbestos Insurance Recoveries. All proceeds from the Asbestos Insurance Actions shall be paid to the Asbestos Trust.

12.5 Insurance Neutrality.

(a) Confirmation of this Plan shall not be binding upon, and shall not have any res judicata or collateral estoppel effect on or against, any Asbestos Insurance Company that is subject to insurance neutrality under the Insurance Neutrality Order regarding its insurance coverage obligations in any pending or subsequent insurance coverage litigation, arbitration, ADR-type proceeding, or other dispute concerning the existence or scope of its rights or obligations regarding asbestos-related liabilities, if any, and shall not have any impact, effect, or consequence in any such other context.

(b) Neither ASARCO, the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, nor the Asbestos Trust may argue or assert, in any court proceeding, arbitration, ADR-type proceeding, or other dispute involving an Asbestos Insurance Company that is subject to insurance neutrality under the Insurance Neutrality Order and concerning issues related to insurance coverage, that any findings or conclusions concerning 11 U.S.C. § 524(g) or constituting any estimation of asbestos-related liabilities contained in or referenced in any decision, order, finding, conclusion, or judgment of the Bankruptcy Court relating to Confirmation of this Plan: (1) constitutes a "judgment," "adjudication," "final order," "settlement," or "finding of liability" related to, based on, or relying on the principles enunciated in *UNR Indus., Inc. v. Continental Cas. Co.*, 942 F.2d 1101 (7th Cir. 1991) and *Fuller-Austin Insulation Co. v. Fireman's Fund Ins. Co.*, No. BC 116835, 2002 WL 398672 (Cal. Super. Ct. Feb. 26, 2002) and 2002 WL 31005090 (Cal. Super. Ct. Aug. 6, 2002); and (2) is binding upon such an Asbestos Insurance Company for any purpose concerning insurance coverage under any policies issued to the Debtors and transferred to the Asbestos Trustees in accordance with the provisions herein. Nothing herein shall limit the ability of ASARCO, the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, or the Asbestos Trust to offer this Plan, any of the Plan Documents, the Confirmation Order, or any part of the confirmation process (including, without limitation, any evidentiary hearings or any findings or conclusions therein) in any court, including any court resolving any insurance coverage litigation, as evidence that the Debtors, Reorganized ASARCO, or the Asbestos Trust are so bound.

(c) Nothing in this Plan shall operate to expand the rights of ASARCO, any of the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, or the Asbestos Trust, or diminish any of their respective duties and obligations as to those rights, duties, and obligations that exist under any policies issued by an Asbestos Insurance Company that is subject to insurance neutrality under the Insurance Neutrality Order as of the Petition Date except as set out in Article 12.5(f) below. Moreover, nothing in the Confirmation process shall in any way operate to, or have the effect of, impairing, prejudicing, or expanding such Asbestos Insurance Company's legal, equitable, or contractual rights in any respect, or of increasing, accelerating, creating, or triggering such Asbestos Insurance Company's insurance coverage obligations, if any, in comparison to what those respective rights or obligations would have been if this Plan had not been confirmed except as set out in Article 12.5(f) below; and all of such

Asbestos Insurance Company's rights are expressly reserved and preserved. Such Asbestos Insurance Company's rights shall be determined pursuant to its insurance policies with the Debtors, and under applicable law. Such Asbestos Insurance Company's rights to conduct discovery, either written or oral, in any future proceeding in any insurance coverage litigation relating to any of the Debtors' asbestos-related liabilities for or such Asbestos Insurance Company's obligations to indemnify the Debtors on account of any or all of such asbestos-related liabilities, if any, shall not be affected, restricted, expanded, altered, or modified by anything in or part of this Plan or the Confirmation process. An Asbestos Insurance Company shall have no such discovery rights in any of the Reorganization Cases; *provided, however*, that such Asbestos Insurance Company shall have rights to conduct discovery in the Reorganization Cases on any issue that does not relate to an Asbestos Insurance Company's alleged obligations, if any, to indemnify the Debtors on account of any asbestos-related liabilities. Without limiting the foregoing, except as set out in Article 12.5(f) below, no proceedings undertaken pursuant to or otherwise as part of the Confirmation process (including, without limitation, any evidentiary hearings or any findings or conclusions constituting or relating to the determination of any Alter Ego Theories, contained in or referenced in any decision, order, finding, conclusion, or judgment of the Bankruptcy Court) shall constitute a trial or hearing on the merits, or an adjudication, final order, settlement, or finding of liability binding on such Asbestos Insurance Company for any purpose concerning insurance coverage for asbestos-related liability, or be used as evidence or offered into evidence in any proceeding to prove that such Asbestos Insurance Company participated in or consented to the procedures undertaken pursuant to this Plan. Any ruling by the Bankruptcy Court on any issue upon which such Asbestos Insurance Company does not involve itself and the Confirmation Order shall not be binding on such Asbestos Insurance Company in any insurance coverage litigation. While the court and the finder of fact in any insurance coverage litigation may be advised of any of the proceedings and Confirmation Order in the Bankruptcy Court and while ASARCO, the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, or the Asbestos Trust may offer this Plan, any of the Plan Documents, any of the Confirmation proceedings, or the Confirmation Order as evidence of the reasonableness of a settlement between or among the Debtors, the Committees, and the FCR, the court and the finder of fact in any insurance coverage litigation shall be informed or instructed that such proceedings and the Confirmation Order in the Bankruptcy Court are not binding on such Asbestos Insurance Company and that it is up to the court or the finder of fact in any insurance coverage litigation to make its own independent determination as to the reasonableness of that settlement as to such Asbestos Insurance Company.

(d) With regard to any Asbestos Insurance Company that is subject to insurance neutrality under the Insurance Neutrality Order, nothing in or as part of this Plan and the Confirmation process shall be deemed to be an "adversarial process" as that concept was enunciated in *Gandy v. State Farm Fire & Cas. Co.*, 925 S.W.2d 696 (Tex. 1996). To the extent of any insurance coverage obligation under any policies issued by such Asbestos Insurance Company, all such Asbestos Insurance Companies reserve all of their rights, if any, to adjudicate in a fully "adversarial" trial or hearing on the merits any or all of the Debtors' asbestos-related liabilities including, without limitation, any liability with respect to any individual asbestos claim; and any other party reserves all of its rights, if any, to oppose such Asbestos Insurance Company's assertion of any such right.

(e) That an Asbestos Insurance Company that is subject to insurance neutrality under the Insurance Neutrality Order does not participate in the negotiation, nor the Confirmation, of this Plan shall not be held against or in favor of any person or entity in any pending or subsequent insurance coverage litigation, arbitration, ADR-type proceeding, or other dispute concerning the existence or scope of such Asbestos Insurance Company's rights or obligations regarding asbestos-related liabilities, if any, except to rebut any argument affirmatively raised by such Asbestos Insurance Company that such Asbestos Insurance Company's absence from the reorganization proceedings reflects collusion against or a lack of cooperation with such Asbestos Insurance Company. Notwithstanding the foregoing, such Asbestos Insurance Company may assert in any such pending or subsequent insurance coverage litigation, arbitration, ADR-type proceeding, or other dispute concerning the existence or scope of such Asbestos Insurance Company's rights or obligations regarding asbestos-related liabilities, if any, any coverage defenses based on collusion against, or lack of cooperation with, such Asbestos Insurance Company on any basis other than such Asbestos Insurance Company's absence from the Reorganization Cases.

(f) Any of ASARCO, the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, or the Asbestos Trust may offer in any court, including any court resolving any insurance coverage litigation, any relevant portion of this Plan, any of the Plan Documents, or the Confirmation Order for any purpose including, without limitation, that this Plan was a reasonable settlement; *provided*, *however*, such offer shall be subject to the rights, defenses (including affirmative defenses), and objections, if any, of any of ASARCO, the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, and the Asbestos Trust.

(g) Notwithstanding the foregoing Article 12.5, to the extent of any conflict between this provision and Article XI, the Permanent Channeling Injunction, the Asbestos Insurance Company Injunction, the provisions of the Asbestos Trust Agreement or the Asbestos TDP, the provisions of Article XI, the Permanent Channeling Injunction, the Asbestos Insurance Company Injunction, the provisions of the Asbestos Trust Agreement or the Asbestos TDP shall govern.

ARTICLE XIII

PROVISIONS GOVERNING DISTRIBUTIONS

13.1 Plan Distributions. Distributions to holders of Unsecured Asbestos Personal Injury Claims and Demands shall be made by the Asbestos Trust in accordance with the Asbestos Trust Documents. All other distributions or payments required or permitted to be made under this Plan, other than to Professional Persons, shall be made by Reorganized ASARCO on the Initial Distribution Date and thereafter by the Plan Administrator at the time or times and in the manner provided herein, unless otherwise ordered by the Bankruptcy Court. Distributions to Professional Persons shall be made by Reorganized ASARCO on the Initial Distribution Date and thereafter by the Plan Administrator pursuant to order of the Bankruptcy Court. Distributions to be made on the Effective Date shall be deemed actually made on the Effective Date if made either (a) on the Effective Date or (b) as soon as reasonably practicable thereafter.

13.2 Delivery of Distributions.

(a) *In General*.

Except as otherwise expressly provided in this Plan, distributions to holders of Allowed Claims shall be made at the address of the holder of such Claim as indicated in the claims register, which shall be maintained by the Claims Agent prior to the Effective Date. After the Effective Date, the Plan Administrator shall be responsible for maintaining the claims register. Claimants must provide the Plan Administrator with written notice of any change of address or any transfer of, or sale of any participation in, any Allowed Claim at least 30 days prior to any distribution by the Plan Administrator in order for the notice to be effective as to that distribution.

(b) *Method of Payment.*

Payments may be made at the election of Reorganized ASARCO or the Plan Administrator by check, wire transfer, or the customary method used for payment by any of the Debtors prior to the Petition Date.

(c) *Distributions on Account of Bondholders' Claims*.

All Cash distributions on account of Allowed Bondholders' Claims shall be made to the appropriate Indenture Trustee and further distributions on account of such Claims by the Indenture Trustees to the record holders of the Bondholders' Claims shall be accomplished in accordance with the Indentures and the policies and procedures of DTC. Issuances of Liquidation Trust Interests and SCC Litigation Trust Interests shall be made in accordance with the instructions contained in a duly executed letter of transmittal to be delivered to the applicable Trust Registrar in advance of the Effective Date or such other procedure established by the Debtors in consultation with the Indenture Trustee. No distributions of Liquidation Trust Interests or SCC Litigation Trust Interests shall be made without the receipt by the applicable Trust Registrar of a completed letter of transmittal with all required signatures and documents. Pending receipt of such letter of transmittal, any such distributions or issuances shall be held in reserve by the Plan Administrator.

If a distribution is made to the Indenture Trustee, such Indenture Trustee shall administer the distribution in accordance with this Plan and the Indenture and, subject to the requirements of Article 15.14 of this Plan, shall be compensated for all of its services and disbursements related to distributions pursuant to this Plan (and for the related fees and expenses of any counsel or professional engaged by the Indenture Trustee with respect to administering or implementing such distributions) by the Debtors, Reorganized ASARCO, or the Plan Administrator, as appropriate, in the ordinary course upon the presentation of invoices by such Indenture Trustee. Subject to the procedures set forth in Article 15.14 of this Plan, the compensation of the Indenture Trustees for services relating to distributions under this Plan shall be made without the need for filing any application or request with, or approval by, the Bankruptcy Court.

An Indenture Trustee shall not be required to give any bond, surety, or other security for the performance of its duties with respect to the administration and implementation of distributions.

Any and all distributions on account of Allowed Bondholders' Claims shall be subject to the right of the respective Indenture Trustee to exercise its Charging Lien for any unpaid Indenture Trustee Fee Claim, any fees and expenses of an Indenture Trustee incurred in making distributions pursuant to this Plan, and any fees and expenses of an Indenture Trustee incurred in responding to any objection by the Debtors to an Indenture Trustee Fee Claim.

The exercise of an Indenture Trustee's Charging Lien against a distribution to recover payment of any unpaid Indenture Trustee Fee Claim shall not subject the Indenture Trustee to the jurisdiction of the Bankruptcy Court with respect to either the exercise of the Charging Lien or the fees and costs recovered thereby.

Notwithstanding any of the foregoing, nothing herein shall be deemed to impair, waive, or extinguish any rights of the Indenture Trustees under their respective Indentures with respect to the Charging Lien.

(d) *Distributions to the United States*.

The United States shall be paid by wire transfer in accordance with wiring instructions provided by the DOJ.

13.3 Intentionally Omitted.

13.4 Unclaimed Property.

(a) *Distributions by the Asbestos Trust.*

Any Cash, assets, or other property to be distributed under this Plan by the Asbestos Trust that remains unclaimed (including by a Claimant's failure to draw upon a check issued to such Claimant) or otherwise is not deliverable to the Claimant entitled thereto one year after the initial distribution is made or attempted shall become vested in, and shall be transferred and delivered to, the Asbestos Trust for use in accordance with the terms of the Asbestos Trust Agreement.

(b) *Distributions by the Plan Administrator*.

(1) If the distribution to any holder of an Allowed Claim (other than the holder of an Unsecured Asbestos Personal Injury Claim or Demand) is returned to Reorganized ASARCO or the Plan Administrator as undeliverable or is otherwise unclaimed (including by a Claimant's failure to draw upon a check issued to such Claimant), no further distributions shall be made to such holder unless the Plan Administrator is timely notified in writing of the holder's then-current address, at which time all missed distributions shall be made to such holder without interest. Amounts in respect of any undeliverable or unclaimed distributions shall be returned to the Plan

Administrator until such distributions are claimed. The Plan Administrator shall segregate and deposit into the Undeliverable and Unclaimed Distribution Reserve all undeliverable or unclaimed distributions for the benefit of all such similarly situated Persons until such time as a distribution becomes deliverable or is claimed or such Claimant's right to the distribution is waived pursuant to Article 13.4(b)(2) below. Nothing contained in this Plan shall require Reorganized ASARCO or the Plan Administrator to attempt to locate any holder of an Allowed Claim.

(2) Any funds in the Undeliverable and Unclaimed Distribution Reserve that remain unclaimed (including by a Claimant's failure to draw upon a check issued to such Claimant) or otherwise are not deliverable to the Claimant entitled thereto for one year after the initial distribution is made or attempted shall be Forfeited Distributions, and shall become vested in, and shall be transferred and delivered to, the Plan Administrator. In such event, such Claimant shall be deemed to have waived its rights to such payments or distributions under this Plan pursuant to section 1143 of the Bankruptcy Code, shall have no further Claim in respect of such distribution, and shall not participate in any further distributions under this Plan with respect to such Claim. The Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) distribute the Forfeited Distributions to the Liquidation Trust for distribution in accordance with the terms and conditions of the Liquidation Trust Agreement.

13.5 Compliance with Tax Requirements. The Debtors, Reorganized ASARCO, the Plan Administrator, the Indenture Trustees, and the Trusts shall comply with all applicable withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authorities, and all distributions hereunder or under any Plan Document shall be subject to such withholding and reporting requirements, if any. Any amount so withheld from a distribution or payment to a Claimant or other payee shall be treated as having been paid to, and received by, such payee for purposes of this Plan and the Plan Documents. Notwithstanding any other provision of this Plan, each Person receiving a distribution pursuant to this Plan, or any other Plan Document, shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any Governmental Unit, including income and other tax obligations, on account of that distribution.

13.6 Setoffs and Recoupments. Subject to the limitations provided in section 553 of the Bankruptcy Code, Reorganized ASARCO or the Plan Administrator, as the case may be, may, but shall not be required to, offset against or recoup from the holder of any Allowed Claim on which payments or other distributions are to be made pursuant to this Plan any Claims of any nature whatsoever the Estates may have against the holder of such Claim, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by Reorganized ASARCO or the Plan Administrator, as the case may be, of any such Claim against such holder or right of setoff or recoupment that the Estates may have against the holder of such Allowed Claim.

13.7 No Distribution Pending Allowance. If a Claim or any portion of a Claim is disputed, no payment or distribution shall be made on account of the disputed portion of such

Claim (or the entire Claim, if the entire Claim is disputed), unless such Disputed Claim becomes an Allowed Claim.

13.8 Disputed Claims Reserve.

(a) The Plan Administrator shall maintain, in accordance with the Plan Administrator's powers and responsibilities under this Plan, a Disputed Claims Reserve.

(b) On the Effective Date (or as soon thereafter as is reasonably practicable), ASARCO, Reorganized ASARCO, or the Plan Administrator, as the case may be, shall deposit in the Disputed Claims Reserve the Cash, the Liquidation Trust Interests, and the SCC Liquidation Trust Interests that would have been distributed to the holders of Disputed Claims (other than Secured Claims to the extent Disputed Secured Claims Reserves are established with respect to such Claims) if such Disputed Claims had been Allowed Claims as of the Effective Date. The amount to be deposited shall be determined based on the lesser of (1) the asserted amount of the Disputed Claims in the applicable Proofs of Claim; (2) the amount, if any, estimated by the Bankruptcy Court pursuant to (i) section 502(c) of the Bankruptcy Code or (ii) this Plan if, after the Effective Date, a motion is filed by the Plan Administrator to estimate such Claims; or (3) the amount otherwise agreed to by the Debtors (or the Plan Administrator, if after the Effective Date) and the holders of such Disputed Claims. The Plan Administrator shall, from time to time, contribute to the Disputed Claims Reserve additional assets received from the Liquidation Trustee or the SCC Litigation Trustee in respect of Disputed Claims.

(c) In the case of objections to allegedly Secured Claims, any Lien asserted by the holder of such a Claim against the ASARCO Residual Assets shall remain in place, pending resolution of the objection to the allegedly Secured Claim. Any Liens asserted by the holder of an allegedly Secured Claim against assets that are sold to the Plan Sponsor or transferred to Reorganized Covington or one of the Trusts shall attach to Cash held by the Plan Administrator in an amount equal to the lesser of (1) the amount of the allegedly Secured Claim; (2) the amount, if any, estimated by the Bankruptcy Court pursuant to section 502(c) of the Bankruptcy Code; (3) the fair market value of such assets, net of any Liens senior to the applicable Liens; or (4) the amount otherwise agreed to by the Debtors and the holders of such allegedly Secured Claims, which Cash shall be held by the Plan Administrator in a Disputed Secured Claims Reserve, pending resolution of the objection to the allegedly Secured Claim.

(d) If a Claim that remains a Disputed Claim as of the Effective Date is thereafter Allowed in whole or in part, the Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) distribute from the Disputed Claims Reserve or a Disputed Secured Claims Reserve to the holder of such Claim the Cash that such holder would have received on account of such Claim if such Claim had been an Allowed Claim on the Effective Date to the extent thereafter Allowed.

(e) If a Disputed Claim is disallowed, in whole or in part, the Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) distribute the Cash reserved in respect of such disallowed Disputed Claim to the Liquidation Trust for distribution in accordance with the terms and conditions of the Liquidation Trust

Agreement, unless such Cash is required to be returned to the SCC Litigation Trust in accordance with Article 6.2(i) of this Plan.

(f) The Plan Administrator and Reorganized ASARCO will take the position for tax purposes that the Disputed Claims Reserve and any Disputed Secured Claims Reserves are grantor trusts owned by Reorganized ASARCO. The Plan Administrator and Reorganized ASARCO shall comply with all tax-reporting requirements accordingly and shall cause taxes attributable to the earnings of the Disputed Claims Reserve or a Disputed Secured Claims Reserve (as well as any taxes directly imposed on the Disputed Claims Reserve or a Disputed Secured Claims Reserve) to be paid out of the assets of the Disputed Claims Reserve or the Disputed Secured Claims Reserve, respectively.

13.9 Surrender of Bondholder Certificates; Lost Certificates.

(a) Each holder of a Certificate shall surrender such Certificate to the Indenture Trustee or the Plan Administrator, as the case may be, and such Certificate shall be cancelled solely with respect to the Debtors and such cancellation shall not alter the obligations or rights of any non-Debtor parties as between or among such persons pursuant to such instruments. No distribution of property hereunder shall be made to such holder unless and until such Certificate is received by the Indenture Trustee or the Plan Administrator, as the case may be, or the unavailability of such Certificate is established to the reasonable satisfaction of such Indenture Trustee or the Plan Administrator. Any holder who fails to surrender or cause the surrender of such Certificate, or fails to execute and deliver an affidavit of loss and indemnity reasonable satisfactory to the Indenture Trustee or the Plan Administrator, as the case may be, prior to the second anniversary of the Effective Date shall be deemed to have forfeited all rights and Claims in respect of such Certificate and shall not participate in any distribution under this Plan, and all property in respect of such forfeited distribution shall be subject to distribution to all other holders of Claims under such Indenture who have duly surrendered or caused the surrender of their Certificates or reasonably established the unavailability thereof.

(b) Any holder of an Allowed Bondholders' Claim with respect to which the underlying Certificate has been lost, stolen, mutilated, or destroyed must, in lieu of surrendering such Certificate, deliver to the Indenture Trustee or the Plan Administrator, as the case may be: (1) evidence satisfactory to the Indenture Trustee or the Plan Administrator, as the case may be, of the loss, theft, mutilation, or destruction; and (2) such security or indemnity as may be required by the Indenture Trustee or the Plan Administrator, as the case may be, to hold it and the Debtors harmless from any damages, liabilities, or costs incurred in treating such individual as a holder of such Certificate. Upon compliance with this Article 13.9 by a holder of an Allowed Bondholders' Claim, such holder will, for all purposes under this Plan, be deemed to have surrendered the applicable Certificate.

(c) Any holder of a Certificate that fails to surrender or is deemed not to have surrendered the applicable Certificate within the time prescribed in Article 13.9(a) hereof shall be deemed to have had its right to distributions pursuant to this Plan on account thereof discharged, and shall be forever barred from asserting any such Claim against the Debtors, the Reorganized Debtors, the Plan Administrator, the Liquidation Trustee, the SCC Litigation Trustee, the Indenture Trustees, or any of the foregoing's respective property.

(d) Notwithstanding the foregoing, if the record holder of a Bondholders' Claim is DTC or its nominee or such other securities depository or custodian thereof, or if a Bondholders' Claim is held in book-entry or electronic form pursuant to a global security held by DTC, then the beneficial holder of such an Allowed Bondholders' Claim shall be deemed to have surrendered such holder's security, note, debenture, or other evidence of indebtedness upon surrender of such global security by DTC or such other securities depository or custodian thereof.

13.10 Cancellation of Instruments. Unless otherwise provided for herein, on the Effective Date, all promissory notes, instruments, indentures, bonds, agreements, or other documents evidencing, giving rise to, or governing any Claim against the Debtors (including the Indentures and the Bonds) shall be deemed cancelled and shall represent only the right, if any, to participate in the distributions contemplated by this Plan. Notwithstanding the foregoing and anything else contained in this Plan, the Indentures shall continue in effect solely for the purposes of (a) allowing distributions to be made under this Plan pursuant to the Indentures and the Indenture Trustees to perform such other necessary functions with respect thereto and to have the benefit of all the protections and other provisions of the applicable Indentures in doing so; (b) permitting an Indenture Trustee to maintain or assert any right or Charging Lien it may have with respect to distributions pursuant to the terms of this Plan for Indenture Trustee Fee Claims; (c) permitting the Indenture Trustees to assert any right to indemnification, contribution, or other Claim any one of them may have under the applicable Indentures, subject to any and all defenses the Debtors may have under this Plan and applicable law to any such asserted right or Claims; and (d) permitting each Indenture Trustee to exercise its rights and obligations relating to the interests of the holders of Bondholders' Claims and its relationship with the holders of Bondholders' Claims pursuant to the applicable Indenture, including all rights it may have to appear and be heard in these Reorganization Cases and any appeals.

ARTICLE XIV

PROCEDURES FOR TREATING DISPUTED CLAIMS

14.1 Objections to Claims. After the Effective Date, the Plan Administrator (on behalf of Reorganized ASARCO) shall have the right to file objections to Claims (other than objections to Unsecured Asbestos Personal Injury Claims and Demands and objections to Claims that have been Allowed) and litigate to judgment, settle, or withdraw such objections to Disputed Claims. Without limiting the preceding, the Plan Administrator (on behalf of Reorganized ASARCO) shall have the right to litigate any Disputed Claim either in the Bankruptcy Court or in any court of competent jurisdiction. After the Effective Date, only the Asbestos Trust shall have the authority to file objections to Unsecured Asbestos Personal Injury Claims and Demands and litigate to judgment, settle, or withdraw such objections. All such objections shall be resolved through the Asbestos TDP. Unsecured Asbestos Personal Injury Claims and Demands, whether or not a Proof of Claim is filed, shall be satisfied exclusively in accordance with this Plan, the Asbestos Trust Agreement, and the Asbestos TDP. For the avoidance of doubt, no objection to Unsecured Asbestos Personal Injury Claims or Demands shall be filed in the Bankruptcy Court. Except as provided herein as to objections to Unsecured Asbestos Personal Injury Claims filed after the Effective Date, nothing in this Article 14.1 shall prejudice any party in interest's right or standing to file objections to Claims. The Debtors' outstanding objections to the Indenture

Trustees' Proofs of Claim (as amended) shall be litigated, if not settled, on a schedule to be agreed upon by the Debtors and the Indenture Trustees, and the Indenture Trustees' rights to seek allowance and payment of the amounts set forth in such Proofs of Claim (as amended) are expressly preserved by this Plan.

14.2 Objection Deadline. Within the later of (a) 90 days after the Effective Date or (b) 90 days after a Proof of Claim is filed, objections to Claims (other than Unsecured Asbestos Personal Injury Claims and Demands, which shall be Allowed or disallowed as provided in the Asbestos TDP) shall be filed with the Bankruptcy Court; *provided, however*, that Reorganized ASARCO or the Plan Administrator may seek to extend such period (or any extended period) for cause.

14.3 Disallowance of Improperly Filed Claims. Any Administrative Claim or other Claim (except for an Unsecured Asbestos Personal Injury Claim or a Demand) for which the filing of a motion for allowance is required shall be disallowed if such filing is not timely and properly made, subject to the right of the Claimant to seek permission under applicable law to file a late Claim.

ARTICLE XV

MISCELLANEOUS

15.1 General Retention of Jurisdiction. Until the Reorganization Cases are closed, the Bankruptcy Court (and, with respect to the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction, the District Court) shall retain the fullest and most extensive jurisdiction permissible, including, without limitation, that necessary (a) to ensure that the purposes and intent of this Plan are carried out; (b) to enforce and interpret the terms and conditions of the Plan Documents; and (c) to enter such orders or judgments, including, without limitation, injunctions necessary to enforce the rights, title, and powers of a Debtor, a Reorganized Debtor, a Settling Asbestos Insurance Company, the Plan Sponsor, or any other ASARCO Protected Party. Except as otherwise provided in this Plan, the Bankruptcy Court shall retain jurisdiction to hear and determine all Claims against and Interests in any of the Debtors and to adjudicate and enforce all other causes of action that may exist on behalf of the Debtors. Nothing contained herein shall prevent Reorganized ASARCO, the Plan Administrator, the Asbestos Trustees, the Liquidation Trustee, or the SCC Litigation Trustee (as appropriate) from taking such action as may be necessary in the enforcement of any cause of action that such Entity has or may have and that may not have been enforced or prosecuted by any of the Debtors, which cause of action shall survive entry of the Confirmation Order and occurrence of the Effective Date and shall not be affected thereby except as specifically provided herein.

15.2 Jurisdiction over the Asbestos Trust and the Environmental Custodial Trusts. The Asbestos Trust and the Environmental Custodial Trusts (including each of the Environmental Custodial Trust Accounts) shall be subject to the continuing jurisdiction of the Bankruptcy Court sufficient to satisfy the requirements of Treasury Regulation section 1.468B-1.

15.3 Specific Purposes. Without limiting the effect of Articles 15.1 and 15.2, the Bankruptcy Court shall retain jurisdiction after Confirmation to:

(a) modify this Plan after entry of the Confirmation Order, pursuant to the provisions of this Plan, the Bankruptcy Code, and the Bankruptcy Rules;

(b) correct any defect, cure any omission, reconcile any inconsistency, or make any other necessary changes or modifications in or to this Plan, the Plan Documents, or the Confirmation Order as may be necessary to carry out the purposes and intent of this Plan;

(c) hear and determine any cause of action, and enter and implement such orders as may be necessary or appropriate, to execute, interpret, implement, consummate, or enforce this Plan, the Plan Documents, and the transactions contemplated thereunder;

(d) hear and determine disputes arising in connection with the execution, interpretation, implementation, Consummation, or enforcement of this Plan, including, without limitation, the Plan Documents, and to enforce, including by specific performance, the provisions of this Plan and the Plan Documents;

(e) hear and determine disputes arising under settlement agreements previously approved by the Bankruptcy Court, including, without limitation, the Environmental Custodial Trust Settlement Agreements, the Miscellaneous Federal and State Environmental Settlement Agreement, and the Residual Environmental Settlement Agreement;

(f) hear and determine disputes arising in connection with the execution, interpretation, implementation, consummation, or enforcement of the New Plan Sponsor PSA, settlement agreements, asset purchase agreements, or other agreements entered into by the Debtors during the Reorganization Cases, or to enforce, including by specific performance, the provisions of such agreements;

(g) enter and implement orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the Consummation or implementation of this Plan, including, without limitation, to issue, administer, and enforce injunctions, releases, assignments, transfers of property or property rights, or other obligations contained in this Plan and the Confirmation Order;

(h) assure the performance by Reorganized ASARCO, the Plan Administrator, and the Trustees of their respective obligations to make distributions under this Plan and other Plan Documents;

(i) enter such orders or judgments, including, without limitation, injunctions as necessary to enforce the title, rights, and powers of any of the Debtors, the Reorganized Debtors, the Plan Sponsor, the Plan Administrator, or the Trusts;

(j) hear and determine any motions, applications, or adversary proceedings brought by or against the Trusts related to (1) enforcement or interpretation of the Trust Documents and (2) amendment, modification, alteration, or repeal of any provision of the Trust Documents, if such hearing and determination by the Bankruptcy Court is required pursuant to this Plan;

(k) hear and determine any adversary proceedings, applications, and contested matters, including any remands after appeal;

(l) ensure that distributions to holders of Allowed Claims and Demands are accomplished as provided herein;

(m) hear and determine any timely objections to or motions or applications concerning Claims or the allowance, classification, priority, compromise, setoff, estimation, or payment of any Claim, including, without limitation, any request to subordinate any Claim or Administrative Claim, to the fullest extent permitted by the provisions of section 157 of title 28 of the United States Code;

(n) enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified, reversed, or vacated;

(o) hear and determine any motions, contested matters, or adversary proceedings involving taxes, tax refunds, tax attributes, tax benefits, and similar or related matters with respect to any of the Debtors, the Reorganized Debtors, the Plan Administrator, or the Trusts arising on or prior to the Effective Date, arising on account of transactions contemplated by the Plan Documents, or relating to the period of administration of the Reorganization Cases;

(p) hear and determine all applications for compensation of Professional Persons and reimbursement of expenses under sections 330, 331, or 503(b) of the Bankruptcy Code;

(q) hear and determine any causes of action relating to any of the Debtors, the Reorganized Debtors, or the Trusts to the fullest extent permitted by section 157 of title 28 of the United States Code;

(r) hear and determine any cause of action in any way related to the Plan Documents or the transactions contemplated thereby, against any ASARCO Protected Party;

(s) recover all assets of each of the Debtors and property of their respective Estates, wherever located, including actions under chapter 5 of the Bankruptcy Code;

(t) hear and determine any motions pending as of the Confirmation Date for the rejection, assumption, or assignment of executory contracts or unexpired leases and the allowance of any Claim resulting therefrom;

(u) hear and determine such other matters and for such other purposes as may be provided in the Plan or the Confirmation Order;

(v) consider and act on the compromise and settlement of any Claim against, or Interest in, any of the Debtors or their respective Estates including, without limitation, any disputes relating to any Administrative Claims, any Bar Date, or Bar Date Order;

(w) hear and determine any questions and disputes regarding title to the assets of any of the Debtors, their respective Estates, or the Trusts;

(x) hear and determine any other matters related hereto, including the implementation and enforcement of all orders entered by the Bankruptcy Court in these Reorganization Cases;

(y) hear and determine any applications brought by the Asbestos Trustees to amend, modify, alter, or repeal any provision of the Asbestos Trust Agreement or the Asbestos TDP pursuant to the Asbestos Trust Agreement and to declare or resolve all issues or disputes contemplated by the Asbestos Trust Agreement;

(z) enter such orders as are necessary to implement and enforce the Injunctions; and

(aa) hear and determine any other matter not inconsistent with the Bankruptcy Code and title 28 of the United States Code that may arise in connection with or related to this Plan.

15.4 Exclusive Jurisdiction of District Court for Certain Matters.

(a) The District Court shall, without regard to the amount in controversy, retain exclusive jurisdiction after Confirmation over matters relating to section 524(g) of the Bankruptcy Code and the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction, including, without limitation, the validity, application, or construction of the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction, or of section 524(g) of the Bankruptcy Code with respect to the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction; *provided, however*, that from and after the Effective Date the jurisdiction of the District Court shall be non-exclusive with respect to any Asbestos Insurance Action or Asbestos Insurance Recovery. Nothing contained herein shall be deemed a finding or conclusion that: (1) the Bankruptcy Court or District Court in fact have jurisdiction with respect to any Asbestos Insurance Action or Asbestos Insurance Recovery; (2) any such jurisdiction is exclusive with respect to any Asbestos Insurance Action or Asbestos Insurance Recovery; or (3) abstention or dismissal or reference of actions effecting the transfer of jurisdiction of any Asbestos Insurance Action or Asbestos Insurance Recovery pending in the Bankruptcy Court or District Court to another court is precluded, inadvisable, or unwarranted. Any court other than the Bankruptcy Court or the District Court that has or is capable of having jurisdiction over any Asbestos Insurance Action or Asbestos Insurance Recovery shall have the right to exercise such jurisdiction.

(b) Notwithstanding entry of the Confirmation Order or the occurrence of the Effective Date, the reference to the Bankruptcy Court pursuant to the Reference Order shall continue, subject to this Article 15.4 and any other modifications or withdrawals of the reference specified in the Confirmation Order, the Reference Order, any case management order, or other order of the District Court.

15.5 Post-Effective Date Status of the Committees and the FCR. The Committees and the position of the FCR shall continue in existence until the Effective Date, with the Debtors to

pay the reasonable fees and expenses of the Committees and the FCR and their counsel and advisors through that date in accordance with the fee and expense procedures promulgated during the Reorganization Cases; *provided, however*, that notwithstanding the foregoing, the Committees and the FCR shall continue in existence after the Effective Date for the duration of any appeal of the Confirmation Order or any other order in which the Committees and the FCR have an interest, and *provided further*, the Committees and the FCR shall have standing to participate in proceedings brought by their respective professionals or, if applicable, members for allowance of fees and reimbursement of expenses for services rendered during the pendency of the Reorganization Cases and for services rendered to the Committees or the FCR during the pendency of any appeal of the Confirmation Order or any other order in which the Committees and the FCR have an interest. On and after the Effective Date, the position of FCR shall continue pursuant to orders issued by the Bankruptcy Court during the Reorganization Cases, provided that the FCR thereafter shall have and exercise the rights, duties, and responsibilities set forth in the Asbestos Trust Documents. Except as provided above, the Committees shall be dissolved on the Effective Date, and the members, attorneys, accountants, and other professionals thereof shall be released and discharged of and from all further authority, duties, responsibilities, liabilities, and obligations related to, or arising from, the Reorganization Cases.

15.6 Modification of Plan. The Debtors may alter, amend, or modify this Plan under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date and expressly reserve their rights to amend this Plan and any Plan Documents as necessary in order to comply with the requirements of the Bankruptcy Code, including, without limitation, section 1129(a) and (b) of the Bankruptcy Code; *provided, however*, that ASARCO shall not, without the prior written consent of the Plan Sponsor so long as the New Plan Sponsor PSA shall not have been terminated, seek to amend or modify any provision of the Bid Protections Order, the Disclosure Statement, this Plan, or the Confirmation Order to effect a change in the terms and conditions of the transactions or release contemplated by the New Plan Sponsor PSA which would reasonably be expected to have a material adverse effect on the Plan Sponsor (or the Guarantor) or on the ability of the Debtors and the Plan Sponsor (and the Guarantor) to consummate the transactions contemplated by the New Plan Sponsor PSA on or before the Termination Date (as such term is defined in the New Plan Sponsor PSA); *except that* ASARCO may seek to amend or modify any provision in the Disclosure Statement, the Plan, or the Plan Confirmation Order in connection with an Acquisition Proposal or Stand-Alone Plan in accordance with section 8.10 of the New Plan Sponsor PSA. After the Confirmation Date, the Debtors may, under section 1127(b) of the Bankruptcy Code, seek Bankruptcy Court approval to remedy any defects or omissions or reconcile any inconsistencies in this Plan or the Confirmation Order in such manner as may be necessary to carry out the purposes and intent of this Plan, so long as the proposed alteration, amendment, or modification does not adversely affect the treatment of Claims or Interests under this Plan and would not reasonably be expected to have a material adverse effect on the Plan Sponsor, the Guarantor, or on the ability to consummate the transactions contemplated by the New Plan Sponsor PSA.

15.7 Revocation, Withdrawal, or Non-Consummation. The Debtors reserve the right to revoke or withdraw this Plan prior to the Confirmation Hearing and to file subsequent plans of reorganization. If the Debtors revoke or withdraw this Plan, or if Confirmation or Consummation does not occur, then (a) this Plan shall be null and void in all respects; (b) any settlement or compromise embodied in this Plan, assumption or rejection of executory contracts

or unexpired leases under this Plan, and any document or agreement executed pursuant to this Plan, shall be deemed null and void; and (c) nothing contained in this Plan shall (1) constitute a waiver or release of any Claims by or against, or Interests in, such Debtors or any other Person, (2) prejudice in any manner the rights of such Debtors or any other Person, or (3) constitute an admission of any sort by the Debtors or any other Person.

15.8 Entire Agreement. Except as otherwise expressly provided in this Plan or the Plan Documents, this Plan and the Plan Documents set forth the entire agreement and undertakings relating to the subject matter thereof and supersedes all prior discussions and documents.

15.9 Rules Governing Conflicts Between Documents. In the event of a conflict between the terms or provisions of this Plan and the Plan Documents, the terms of this Plan shall control over the Plan Documents. In the event of a conflict between the terms of this Plan or the Plan Documents, on the one hand, and the terms of the Confirmation Order, on the other hand, the terms of the Confirmation Order shall control. In the event of a conflict between the information contained in the Disclosure Statement and this Plan or any other Plan Document, this Plan or other Plan Document (as the case may be) shall control.

15.10 Severability. In the event any provision in this Plan should be determined to be unenforceable either on its face or as applied to any Claim, Demand, Interest, or transaction, the Debtors may modify this Plan in accordance with Article 15.6 hereof so that such provision shall not be applicable to the holder of any Claim, Demand, Interest, or transaction. Such determination of unenforceability shall not (a) limit or affect the enforceability and operative effect of any other provision of this Plan or (b) require the re-solicitation of any acceptance or rejection of this Plan.

15.11 Headings. Headings are utilized in this Plan for convenience and reference only and shall not constitute a part of this Plan for any other purpose.

15.12 Bar Date for Compensation and Reimbursement Claims. All applications for final allowances of compensation or reimbursement of expenses under section 330 of the Bankruptcy Code or applications for allowance of Administrative Claims arising under subsections (b)(2) through (b)(6) of section 503(b) of the Bankruptcy Code must be filed on or before 90 days after the Effective Date, unless otherwise ordered by the Bankruptcy Court; *except that* any application under section 503(b)(3)(D) of the Bankruptcy Code or any application for a fee enhancement or success fee under the Bankruptcy Code must be filed on or before 60 days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to applications of such Professionals Persons or other Entities for compensation or reimbursement of costs and expenses or for substantial contribution Claims must be filed within 20 days after the applicable application for compensation or reimbursement was served.

15.13 Subsequent Administrative Claims Bar Date. Claimants, other than Professional Persons, holding Administrative Claims against a Debtor that arise after the Initial Administrative Claims Bar Date and remain unpaid on the Effective Date must file a request for payment of such Subsequent Administrative Claim on or before 45 days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Any holder of a Subsequent Administrative

Claim that is required to file a request for payment of such Claim and that does not file such request prior to the Subsequent Administrative Claims Bar Date shall be forever barred from asserting such Subsequent Administrative Claim against the Debtors, the Reorganized Debtors, and their respective properties, and such Subsequent Administrative Claim shall be deemed discharged as of the Effective Date. Objections to Subsequent Administrative Claims must be filed with the Bankruptcy Court within 20 days after the applicable Subsequent Administrative Claim was served, unless such objection deadline is extended by the Bankruptcy Court. Any Subsequent Administrative Claims of the United States or any individual state under civil Environmental Laws relating to the Designated Properties shall be addressed through the Environmental Custodial Trust Settlement Agreements, the Environmental Custodial Trust Funding, and the Environmental Custodial Trust Administration Funding to be paid by ASARCO to the Environmental Custodial Trusts.

15.14 Indenture Trustee Fee Claims.

(a) If, at least 20 days prior to the commencement of the Confirmation Hearing, the Debtors receive from the Indenture Trustees statement(s) of their respective Indenture Trustee Fee Claims incurred through such date and projected to be incurred after such date, together with such detail as may be reasonably requested by the Debtors, the Debtors or Reorganized ASARCO, as appropriate, shall pay, on the Effective Date, the Indenture Trustee Fee Claims, in full, in Cash. Notwithstanding the foregoing, to the extent that the Debtors dispute any portion of the Indenture Trustee Fee Claims, prior to the Effective Date the Debtors shall file with the Bankruptcy Court and serve on the appropriate Indenture Trustee an objection to such Indenture Trustee Fee Claim stating with specificity the Debtors' objections to such Indenture Trustee Fee Claim. On the Effective Date, the Debtors or Reorganized ASARCO, as appropriate, shall reserve an amount equal to the amount of disputed Indenture Trustee Fee Claims and such dispute shall be consensually resolved by the parties or presented to the Bankruptcy Court for adjudication. The Indenture Trustees reserve the right to assert whatever fees and expenses they believe should be Allowed as Indenture Trustee Fee Claims, and the Debtors and Reorganized ASARCO reserve the right to object to any such amounts on any applicable grounds.

(b) Subject to the payment of the non-disputed portion of the Indenture Trustee Fee Claims and the establishment of the reserve with respect to any disputed portion of the Indenture Trustee Fee Claims, and the payment of all other fees and expenses (including fees and expenses of counsel and other professionals) incurred by the Indenture Trustees, to the extent payment of the foregoing fees and expenses is permitted by the Indentures, all Charging Liens of the Indenture Trustees in any distributions shall be forever released and discharged. Once the Indenture Trustees have completed performance of all of their duties set forth in this Plan or in connection with any distributions to be made under this Plan, if any, the Indenture Trustees, and their successors and assigns, shall be relieved of all obligations as Indenture Trustees effective as of the Effective Date.

15.15 Governing Law. Except to the extent that federal law (including, without limitation, the Bankruptcy Code and the Bankruptcy Rules) is applicable or this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed

and enforced in accordance with, the laws of the State of Texas without giving effect to its conflicts of law principles.

15.16 Consent to Jurisdiction. Except for the matters within the exclusive jurisdiction of the District Court as described in Article 15.4 hereof, the Debtors, Reorganized ASARCO, the Plan Administrator, the Trustees, the Trusts, the Asbestos TAC, the FCR, the Plan Sponsor, and the Guarantor consent to the jurisdiction of the Bankruptcy Court, or any successor thereto, for all proceedings relating to the enforcement of this Plan and the Plan Documents, the Confirmation Order, and the Asbestos Insurance Company Injunction. As to the matters within the exclusive jurisdiction of the District Court as described in Article 15.4 hereof, the Debtors, Reorganized ASARCO, the Plan Administrator, the Asbestos Trustees, the Asbestos Trust, the Asbestos TAC, the FCR, the Plan Sponsor, and the Guarantor consent to the jurisdiction of the District Court, or any successor thereto, and agree that it shall be the preferred forum for all matters within the exclusive jurisdiction of the District Court as described in Article 15.4.

15.17 Transfer Taxes. The issuance, transfer, or exchange of any securities under, or the transfer of any other assets or property pursuant to, or in connection with, this Plan or the making or delivery of an instrument of transfer under, or in connection with, this Plan shall not, pursuant to section 1146 of the Bankruptcy Code, be taxed under any law imposing a stamp tax or similar tax.

15.18 Recordable Order. The Confirmation Order shall be deemed to be in recordable form, and shall be accepted by any recording officer for filing and recording purposes without further or additional orders, certifications, or other supporting documents.

15.19 Successors and Assigns. The rights, duties, and obligations of any Entity named or referred to in this Plan shall be binding upon, and shall inure to the benefit of, the successors and assigns of such Entity.

15.20 Waiver of Rights. Holders of Claims, Demands, or Interests shall have the right voluntarily to waive any rights, benefits, or protections that are afforded to them under the provisions of this Plan or any order issued in furtherance of this Plan, and such waiver shall supersede such rights, benefits, or protections. Any such waiver shall only be effective if such party expressly and specifically waives in writing one or more of such rights, benefits, or protections.

15.21 Notices. All notices, requests, elections, or demands in connection with this Plan or the Plan Documents shall be in writing and shall be delivered by registered or certified mail, return receipt requested, by facsimile, by email, or by overnight mail to the following addresses unless a different address is designated in a notice served in accordance with this provision:

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15.22 Retention and Disposal of Retained Books and Records (Other than Asbestos Books). The Reorganized Debtors shall make all reasonable efforts to preserve the Retained Books and Records in the same order, format, and condition in which they exist on the Effective Date for 180 days after the Effective Date. After this 180-day period, the Plan Administrator, in consultation with the Trustees, may (in the Plan Administrator's discretion and without liability or recourse) dispose of any Retained Books and Records which the Plan Administrator determines are appropriate for disposal. The Plan Administrator shall provide the Trustees with a reasonable opportunity to segregate and remove, at the expense of the applicable trust, such Retained Books and Records as they may select. Any requests by parties in interest for copies or originals of any of the Retained Books and Records must be made in writing to the Reorganized Debtors on or before 60 days after the Effective Date. All such parties in interest shall reasonably cooperate with the Reorganized Debtors in regards to such requests for copying or permanent retention of any Retained Books and Records. Procedures for retention and disposal of Asbestos Books are set forth in Article 7.13 above.

Dated: August 7, 2009

Respectfully submitted,

ASARCO LLC, a Delaware limited liability company

By: */s/ Joseph F. Lapinsky*
Joseph F. Lapinsky
Chief Executive Officer and President

ALC, INC., a Tennessee corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President

ALTA MINING AND DEVELOPMENT COMPANY, a Utah corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

AMERICAN SMELTING AND REFINING COMPANY, a New Jersey corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

AR MEXICAN EXPLORATIONS, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

AR SACATON, LLC, a Delaware limited liability company

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ASARCO CONSULTING, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ASARCO EXPLORATION COMPANY, INC., a New York corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ASARCO MASTER, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ASARCO OIL AND GAS COMPANY, INC., a New York corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

BLACKHAWK MINING AND DEVELOPMENT COMPANY, LIMITED, an Idaho corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

BRIDGEVIEW MANAGEMENT COMPANY, INC., a New Jersey corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

CAPCO PIPE COMPANY, INC., an Alabama corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

CEMENT ASBESTOS PRODUCTS COMPANY, an Alabama corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

COVINGTON LAND COMPANY, a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ENCYCLE, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

GOVERNMENT GULCH MINING COMPANY LIMITED, an Idaho corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

GREEN HILL CLEVELAND MINING COMPANY, a Nevada corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

LAC D'AMIANTE DU QUÉBEC LTÉE, a Delaware corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

LAKE ASBESTOS OF QUEBEC, LTD., a Delaware corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

LAQ CANADA, LTD., a Delaware corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

PERU MINING EXPLORATION AND DEVELOPMENT COMPANY, a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

SOUTHERN PERU HOLDINGS, LLC, a Delaware limited liability company

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

TULIPAN COMPANY, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

WYOMING MINING AND MILLING COMPANY, an Idaho corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary