

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

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In re:	:	
	:	Chapter 11
ASARCO LLC, et al.,	:	
	:	Case No. 05-21207
	:	
Debtors.	:	Jointly Administered
	:	
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**CHAPTER 11 PLAN FILED BY HARBINGER
CAPITAL PARTNERS MASTER FUND I, LTD.**

KRAMER LEVIN NAFTALIS &
FRANKEL LLP
Thomas Moers Mayer, Esq.
1177 Avenue of the Americas
New York, New York 10036
(212) 715-9100 (telephone)
(212) 715-8000 (facsimile)

WINSTEAD PC
Phillip L. Lamberson
J. Frasher Murphy
5400 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270
Telephone: (214) 745-5400
Facsimile: (214) 745-5390

Counsel to the Harbinger Master Fund

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Exhibits to the Plan

<u>Exhibit Designation</u>	<u>Exhibit Title</u>
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	Plan Sponsor PSA
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 Section 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

Harbinger Capital Partners Master Fund I, Ltd. (the “Harbinger Master Fund”) 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 attached hereto as Annex 1. 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 UNKNOWN ASBESTOS CLAIMS

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. The Asbestos Trust shall have an Allowed Administrative Claim for its administrative expenses in the amount estimated by the Bankruptcy Court pursuant to its estimation order, following an evidentiary hearing; provided, however, if the parties reach agreement regarding the aggregate Allowed Amount of such Claims for purposes of the Plan, such amount shall be approved by the Bankruptcy Court in accordance with such procedures as the Bankruptcy Court shall require, including the presentation of supporting evidence regarding such settlement. 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. Unknown Asbestos Claims. Subject to Article 11.3, Unknown Asbestos Claims 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 an Unknown Asbestos Claim 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 Proponent, 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.

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 Proponent shall make its election prior to the Confirmation Hearing. The Proponent shall solicit the votes of each sub-Class of Secured Claims. If the Proponent elects to Reinstate a particular Secured Claim, that sub-Class shall be unimpaired, and that sub-Class's vote shall not be counted. If the Proponent elects 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 Pro Rata share of the Plan Consideration based on the total aggregate amount of Allowed Claims in Classes 3 and 4 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 Unknown Asbestos Claims shall be assumed by, and, as set forth in Article 11.3, channeled to, the Asbestos Trust without further act or deed for the reasons stated herein, and shall be satisfied as set forth herein.

All Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims shall be processed, liquidated, and paid by the Asbestos Trust, acting under the control and direction of the Asbestos Trustees, pursuant to the terms and provisions of the Asbestos TDP and the Asbestos Trust Agreement. The Asbestos Trust is described in Article VII below. The sole recourse of the holder of an (i) Unsecured Asbestos Personal Injury Claim or, (ii) in the first instance as set forth below in Article 11.3, Unknown Asbestos Claims, shall be to the Asbestos Trust, as operated by the Asbestos Trustees (including Reorganized ASARCO), and the Asbestos TDP, and such holder shall have no rights whatsoever at any time (other than, in certain instances as set forth in Article 11.3, holders of Unknown Asbestos Claims) to assert such holder's Claim against any Debtor, Reorganized Debtor, or 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 and/or Unknown Asbestos Claims.

(1) *Class 4A — Asbestos Premises Liability Claims.*

The Asbestos Trust shall create an Asbestos Premises Liability Claims Fund for payment of Asbestos Premises Liability Claims (including Unknown Asbestos Claims). The Asbestos Premises Liability Claims Fund shall be funded with the Class 4A Pro Rata Share of the Plan Consideration.

(2) *Class 4B — Unsecured Asbestos Personal Injury Claims other than Asbestos Premises Liability Claims.*

The Asbestos Trust shall create an Asbestos Personal Injury Claims Fund for payment of all Unsecured Asbestos Personal Injury Claims (including Unknown Asbestos Claims) other than Asbestos Premises Liability Claims. The Asbestos Personal Injury Claims

Fund shall be funded with (a) 100 percent of the interests in Reorganized Covington; and (b) the Class 4B Pro Rata Share of the Plan Consideration.

The Proponent reserves the right prior to the Confirmation Date to add such additional provisions in the Asbestos Trust or this Plan as may be advisable to preserve the Debtors' claims under any Asbestos Insurance Policy or under the Asbestos In-Place Insurance Coverage.

This Class is impaired. Holders of Asbestos Premises Liability Claims in sub-Class 4A and Unsecured Asbestos Personal Injury Claims in sub-Class 4-B 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.*

The holders of Late-Filed Claims shall receive interests in the Liquidation Trust and the SCC Litigation Trust to be applied in accordance with the Trust Interest Priorities.

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.*

The holders of Subordinated Claims shall receive interests in the Liquidation Trust and the SCC Litigation Trust to be applied in accordance with the Trust Interest Priorities.

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.*

The holders of Interests in ASARCO shall receive interests in the Liquidation Trust and the SCC Litigation Trust to be applied in accordance with the Trust Interest Priorities.

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. Subordinated Indemnification of Plan Sponsor. In connection with the purchase by the Plan Sponsor of the Sold Assets, the Liquidating Trust and the SCC Litigation Trust shall indemnify and hold the Plan Sponsor and its present, future and former partners, principals, directors, employees and agents harmless from any liability, damages (including without limitation, direct, incidental and consequential) fees, expenses and costs (including defense costs) associated with any third-party claim arising from or relating to the Plan Sponsor's purchase of the Sold Assets pursuant to the Plan Sponsor PSA, provided, however, that the obligations of the Liquidating Trust and the SCC Litigation Trust with respect to such indemnity shall be subordinate in all respects to the payment in full (including postpetition interest at the applicable contract rate) of all Allowed Claims in Class 3, Class 4, and Class 6.

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

(a) Derivative Asbestos Claims, which, if not settled, are to be estimated by the Bankruptcy Court prior to Confirmation, shall be treated as Class 4 Claims under this Plan;

(b) any Claims or causes of action asserted in any of the Litigation Claims shall be preserved and resolved by Reorganized ASARCO post-Confirmation, and the amount, if any, that the Bankruptcy Court determines constitutes property of the Estates of the Asbestos Subsidiary Debtors shall be turned over to the Asbestos Trust, net of any costs of recovery;

(c) any Allowed Claims asserted by the Asbestos Subsidiary Debtors against ASARCO (excluding Derivative Asbestos Claims and Administrative Expenses) shall be treated as Class 3 Claims under this Plan;

(d) ASARCO's Administrative Claims under the Secured Intercompany DIP Credit Facility shall be treated as follows: to the extent the distribution on account of such

Class 1 Priority Claims fails to satisfy such Claims in full, ASARCO shall be permitted to withhold distributions on account of any Class 3 Claims of the Asbestos Subsidiary Debtors and apply such distributions to the indebtedness until all amounts owed ASARCO under the Secured Intercompany DIP Credit Facility are paid in full. If any amounts are still outstanding after such application, ASARCO shall be permitted to withhold distributions on account of any Class 4 Claims of the Asbestos Subsidiary Debtors and apply such distributions to the indebtedness until all amounts owed to ASARCO under the Secured Intercompany DIP Credit Facility are paid in full; and

(e) 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.

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), 3, 4A, and 4B shall be entitled to vote separately to accept or reject this Plan. Any Class of Claims or Interests that does not have a holder of an Allowed Claim or Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court 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 Proponent, 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 other than contingent interests in the Liquidation Trust and the SCC Litigation Trust subject to the Trust Interest Priorities. 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. 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 by the Bankruptcy Court 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 five 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); (3) one selected by the Asbestos Claimants' Committee; (4) one selected by the Plan Administrator; and (5) one selected by the other four members of the Liquidation Trust Board.

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; (3) in the case of the member originally selected by the Asbestos Claimants' Committee, by the Asbestos Trustees; (4) in the case of the member originally selected by the Plan Administrator, by the Plan Administrator; and (5) in the case of the other member of the Liquidation Trust Board, by the then-current other three members of the Liquidation Trust Board; provided, however, that any holder of 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.

(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 to the Liquidation Trustee.*

On the Effective Date (or with respect to clause (4), 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) the Liquidation Trust Expense Fund; and (4) such other assets as deemed appropriate by Reorganized ASARCO in accordance with the Plan. As soon as practicable after the Effective Date, the 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, 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 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.

The Liquidation Trust shall be deemed a "successor to the debtor" for purposes of section 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 Proponent intends 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 10 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 (i) the Asbestos Trust (for the benefit of Unsecured Asbestos Personal Injury Claimants and Unknown Asbestos Claims), (ii) the Non-Environmental Unsecured Claimants, and (iii) the Governmental Environmental Claimants, in each case, pro rata based on the respective Allowed Amounts of Claims held by each such Claimant as a percentage of all Allowed Amounts of Claims held by all Non- Environmental Unsecured Claimants and Governmental Environmental Claimants and, in the case of the issuance of Liquidation Trust Interests to the Asbestos Trust, based on the aggregate amount of Asbestos Personal Injury Claims and Unknown Asbestos

Claims as estimated by the Bankruptcy Court or otherwise agreed to by the Proponent. Promptly following notice from the Plan Administrator that the Disputed Claim of a Non- Environmental Unsecured Claimant or Governmental Environmental Claimant becomes an Allowed Claim, such Claimant shall be issued Liquidation Trust Interests in such amount that upon issuance the ratio of the number of such Liquidation Trust Interests so issued to the total number of Liquidation Trust Interests, including such Liquidation Trust Interests, is equal to the ratio of such Claimant's Allowed Amount with respect to such Disputed Claim to all Allowed Amounts of Claims held by all Class A, Class B and Class C Liquidation Trust Beneficiaries (immediately prior to their receipt of their Liquidation Trust Interests), including such Claimant, with respect to which such Liquidation Trust Beneficiaries received Liquidation Trust Interests. For purposes of the calculation contained in the preceding sentence, if a Liquidation Trust Beneficiary has transferred his Liquidation Trust Interests to a third party, the Allowed Claim held by the initial holder of such interests shall be used (and if less than all of such Liquidation Trust Beneficiary's Liquidation Trust Interests have been so transferred, the portion of the Allowed Claim corresponding to the portion of Liquidation Trust Interests so transferred shall be used). To the extent that the Allowed Claims in Class 4 and Unknown Asbestos Claims actually allowed under the Asbestos TDP exceed the amount as estimated by the Bankruptcy Court, additional Liquidation Trust Interests shall be issued to the Asbestos Trust such that the Asbestos Trust will have received the Class 4 Pro Rata Share based on the actual amounts of such Allowed Claims. In addition, to the extent that the Allowed Claims in Class 4 and Unknown Asbestos Claims allowed under the Asbestos TDP exceed the amount as estimated by the Bankruptcy Court after the Liquidation Trust has begun making cash distributions on account of such interests, those Allowed Claims in excess of the amount as estimated by the Bankruptcy Court shall be entitled to receive additional distributions from the Liquidation Trust (to be paid through the Asbestos Trust) until the holder of such claim receives payment on account of such claim proportionate in value to that received by all other Allowed Claim holders of Liquidation Trust Interests. For the avoidance of doubt, it is the intent of the Proponent that the holders of Claims in Class 4 and the holders of Unknown Asbestos Claims should receive a distribution on account of such claims that is generally proportionate to that received by the holders of Class 3 Claims.

The Liquidation Trust Documents shall provide for the issuance of residual interests to the holders of claims in Class 6 and Class 7, the Plan Sponsor and the holders of interests in Class 8 for distributions to be made in accordance with the Trust Interest Priorities.

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 Non-Environmental 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 for the benefit of Unsecured Asbestos Personal Injury Claimants 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. To the extent that the holder of a Liquidation Trust Interest has received distributions from the

Liquidation Trust in an amount equal to the full amount of such holder's Claim (including postpetition interest), such holder's Liquidation Trust Interest shall be cancelled.

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 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.

(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 as such (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 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. The Indenture Trustees shall be the holders of the Class A Liquidation Trust Interests with respect to the Bonds for which they serve as Indenture Trustee, and as such shall be listed in the Liquidation Trust Register as the Liquidation Trust Beneficiaries on account of the Bondholders' Claims.

(4) Evidence of Liquidation Trust Interests.

Ownership of a Liquidation Trust Interest shall not be evidenced by any certificate, security, or receipt or in any form or manner, other than by book entry 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, to ensure that the Liquidation Trust is not subject to registration or reporting requirements of the Exchange Act.

The Proponent anticipates 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 Proponent has 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;

(2) second, to pay the Plan Administrator such percentage of all remaining amounts as the Plan Administrator designates from time to time to be delivered for the purposes of satisfying the Disputed Claims Reserve; and

(3) third, to pay any remaining amounts to the Liquidation Trust Beneficiaries pro rata based on their Liquidation Trust Interest holdings in accordance with the Trust Interest Priorities.

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 interest holdings in accordance with the Trust Interest Priorities.

(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 fifty-first (51st) 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 (x) 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 (y) 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 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. 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, subject to the consent of the Proponent, to seek to auction interests in the SCC Litigation in anticipation of Confirmation. If the Debtors determine that pursuit of such an auction is in the best interest of their Estates, and have obtained the required consent of the Proponent, 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' interest in the SCC Litigation is to be transferred in its 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 and subject to the consent of the Proponent, to transfer only a portion of their interest in the SCC Litigation, the SCC Litigation Trust will be created and SCC Litigation Trust Interests shall be issued in accordance herewith. If the Debtors decide, subject to the consent of the Proponent, that no interests in the SCC Litigation Trust shall be sold at the auction or otherwise, then the SCC Litigation Trust will not be created and the SCC Litigation will be contributed to the Liquidation Trust.

(b) *Appointment of Trustees.*

The Plan Administrator shall serve as the SCC Litigation Trustee. Upon approval by the Bankruptcy Court 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 the same five members as the Liquidation Trust Board.

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; (3) in the case of the member originally selected by the

SCC Purchasers, by the then-current holders of a majority of the Class C SCC Litigation Trust Interests; (4) in the case of the member originally selected by the Plan Administrator, by the Plan Administrator; and (5) in the case of the other member of the SCC Litigation Trust Board, by the then-current other three members of the SCC Litigation Trust Board; 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 the SCC Litigation, or is an Affiliate of any party adverse to ASARCO in the SCC Litigation, shall not be entitled to the foregoing selection rights.

Notwithstanding this section (c), the Proponent may, prior to the Effective Date, amend the SCC Litigation Trust Agreement to do any of the following: increase or decrease the number of members of the SCC Litigation Trust Board, 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 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 the SCC Litigation 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.

The SCC Litigation Trust shall be deemed a "successor to the debtor" for purposes of section 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 Proponent intends 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 10 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 (i) the SCC Purchasers, (ii) the Asbestos Trust (for the benefit of Unsecured Asbestos Personal Injury Claimants and Unknown Asbestos Claimants), (iii) the Non-Environmental Unsecured Claimants, and (iv) the Governmental Environmental Claimants 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 (i) the Asbestos Trust (for the benefit of Unsecured Asbestos Personal Injury Claimants and Unknown Asbestos Claimants), (ii) the Non- Environmental Unsecured Claimants and (iii) the Governmental Environmental Claimants, in each case, pro rata based on the respective Allowed Amounts of Claims held by each such Claimant as a percentage of all Allowed Amounts of Claims held by all Non-Environmental Unsecured Claimants and Governmental Environmental Claimants and, in the case of the issuance of SCC Litigation Trust Interests to the Asbestos Trust, based on the aggregate amount of Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims as estimated by the Bankruptcy Court or otherwise agreed to by the Proponent. All SCC Litigation Trust Interests issued to Non-Environmental 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 Documents shall provide for the issuance of residual interests to the holders of claims in Class 6 and Class 7, the Plan Sponsor and the holders of interests in Class 8 for distributions to be made in accordance with the Trust Interest Priorities.

Promptly following notice from the Plan Administrator that any Disputed Claim of a Non-Environmental Unsecured Claimant, Governmental Environmental Claimant, or a Unsecured Asbestos Personal Injury Claimants has become an Allowed Claim, such Claimant shall be issued SCC Litigation Trust Interests (designated as either Class A, Class B or Class C, as described above) in such amount that upon issuance the ratio of the number of such SCC Litigation Trust Interests so issued to the total number of Class A, Class B and Class C SCC Litigation Trust Interests, including such SCC Litigation Trust Interests, is equal to the ratio of such Claimant's Allowed Amount with respect to such Disputed Claim to all Allowed Amounts of Claims held by the SCC Litigation Trust Beneficiaries holding all Class A, Class B, or Class C SCC Litigation Trust Interests (immediately prior to their receipt of their SCC Litigation Trust Interests), including such Claimant, with respect to which such SCC Litigation Trust Beneficiaries received Class A, Class B, or Class C SCC Litigation Trust Interests. For purposes of the calculation contained in the preceding sentence, if an SCC Litigation Trust Beneficiary has transferred his Class A, Class B, or Class C SCC Litigation Trust Interests to a third party, the Allowed Claim held by the initial holder of such interests shall be used (and if less than all of such SCC Litigation Trust Beneficiary's Class A, Class B, or Class C SCC Litigation Trust Interests have been so transferred, the portion of the Allowed Claim corresponding to the portion of such SCC Litigation Trust Interests so transferred shall be used). The additional issuance of

Class A, Class B, or Class C SCC Litigation Trust Interests shall not affect or change in any way the SCC Purchaser Percentage. To the extent that the Allowed Claims in Class 4 and Unknown Asbestos Claims actually allowed under the Asbestos TDP exceed the amount as estimated by the Bankruptcy Court, additional SCC Litigation Trust Interests shall be issued to the Asbestos Trust such that the Asbestos Trust will have received the Class 4 Pro Rata Share based on the actual amounts of such Allowed Claims. In addition, to the extent that the Allowed Claims in Class 4 and Unknown Asbestos Claims allowed under the Asbestos TDP exceed the amount as estimated by the Bankruptcy Court after the SCC Litigation Trust has begun making cash distributions on account of such interests, those Allowed Claims in excess of the amount as estimated by the Bankruptcy Court shall be entitled to receive additional distributions from the SCC Litigation Trust (to be paid through the Asbestos Trust) until the holder of such claim receives payment on account of such claim proportionate in value to that received by all other Allowed Claim holders of SCC Litigation Trust Interests. For the avoidance of doubt, it is the intent of the Proponent that the holders of Claims in Class 4 and the holders of Unknown Asbestos Claims should receive a distribution on account of such claims that is generally proportionate to that received by the holders of Class 3 Claims.

To the extent that the holder of an SCC Litigation Trust Interest has received distributions from the SCC Litigation Trust in an amount equal to the full amount of such holder's Claim (including postpetition interest), such holder's SCC Litigation Trust Interest shall be cancelled.

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 the Debtors (prior to the Effective Date) or the SCC Litigation Trustee (after the Effective Date) may at any time cause the SCC Litigation Trust Interests to be non-transferable to achieve desired treatment under tax or securities laws.

(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 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. The Indenture Trustees shall be the holders of the Class A SCC Litigation Trust Interests with respect to the Bonds for which they serve as Indenture Trustee, and as such shall be listed in the SCC Litigation Trust Register as the SCC Litigation Trust Beneficiaries on account of the Bondholders' Claims.

(4) Evidence of SCC Litigation Trust Interests.

Ownership of an SCC Litigation Trust Interest shall not be evidenced by any certificate, security, or receipt or in any form or manner, other than by book entry 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, 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 Proponent anticipates 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 Proponent has 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;

(2) second, to distribute to the SCC Litigation Trust Beneficiaries holding Class D SCC Litigation Trust Interests pro rata based on their respective Class D SCC Litigation Trust Interest holdings such percentage of the remaining amount equal to the SCC Purchaser Percentage;

(3) third, to pay the Plan Administrator such percentage of all remaining amounts as the Plan Administrator designates from time to time to be delivered to the Disputed Claims Reserve for the purpose of satisfying Disputed Claims; and

(4) fourth, to pay any remaining amounts to the SCC Litigation Trust Beneficiaries pro rata based on their SCC Litigation Trust Interest holdings in accordance with the Trust Interest Priorities.

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 as follows:

(1) first, to the SCC Litigation Trust Beneficiaries holding Class D SCC Litigation Trust Interests pro rata based on their respective Class D SCC Litigation Trust Interest holdings, a percentage of such funds equal to the SCC Purchaser Percentage; and

(2) second, to the SCC Litigation Trust Beneficiaries pro rata based on their SCC Litigation Trust Interest holdings in accordance with the Trust Interest Priorities.

(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 fifty-first (51st) 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 (x) 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 (y) 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.

7.2. Appointment of Asbestos Trustees.

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

(b) The Proponent (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, as such term is defined in the Asbestos Trust Agreement, 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 Unknown Asbestos Claims 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 Unknown Asbestos Claims in accordance with the terms of the Asbestos Trust Agreement; (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 Unknown Asbestos Claims, who are the sole beneficiaries of the Asbestos Trust; and (d) ensure that claims are paid no more than is legally justified, protecting the interests of the Parent, which is the residual beneficiary of the Asbestos Trust. For the avoidance of doubt, it is intended that the Asbestos Trust be constituted, maintained, and administered in a manner that ensures that claims against the Asbestos Trust are appropriately contested, defended, and resolved in accordance with the legal merits of such claims.

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 Unknown Asbestos Claims; and (c) the Debtors' Privileges associated with the Asbestos Personal Injury Claims and Unknown Asbestos Claims except to the extent that Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall concurrently retain all Privileges in connection with Asbestos Books that remain in their possession and Reorganized ASARCO shall concurrently retain all Privileges in connection with its pursuit of the Asbestos Insurance Recoveries.

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, the Asbestos Subsidiary Debtors, the Asbestos

Subsidiary Committee, the Asbestos Claimants' Committee, the Asbestos Trustees, the members of the Asbestos TAC, and the FCR shall execute the Asbestos Trust Agreement.

7.8. Intentionally Omitted.

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 Unknown Asbestos Claims and the Asbestos Trustees shall be responsible for ensuring that the Asbestos Trust is administered in accordance with the Asbestos Trust Agreement, including that Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims are paid in accordance with the Asbestos TDP.

7.10. Intentionally Omitted.

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 Asbestos Trust's Allowed Administrative Claim provided for in Article 2.1 above, neither the Debtors nor the Reorganized Debtors shall have any obligation to pay or reimburse any Asbestos Trust Expenses.

7.13. Asbestos Books.

(a) *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, 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, the Plan Administrator for any Asbestos Books that remain in Reorganized ASARCO's possession or that are transferred to the Plan Sponsor.

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

Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall cooperate with the Asbestos Trust in 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 Plan Sponsor PSA, as applicable, and any requests made to the Plan Sponsor regarding 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. The Plan Sponsor and the Asbestos Trust shall cooperate with Reorganized ASARCO 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 the meaningful retention by Reorganized ASARCO of the

proceeds of any Asbestos Insurance Policy, Asbestos Insurance Recovery or Recoveries, Asbestos Insurance Action, or Asbestos In-Place Insurance Coverage; 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 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. The Asbestos Trust shall (a) provide Reorganized ASARCO with all information regarding insurance matters reasonably requested, including, without limitation, (1) information regarding the status of the resolution of Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims and (2) information necessary or helpful in connection with its efforts to obtain recoveries from an Asbestos Insurance Company including, without limitation, recoveries of extracontractual damages and (b) execute reasonably requested documentation to facilitate Reorganized ASARCO's pursuit of claims or other action necessary for Reorganized ASARCO to realize recoveries from an Asbestos Insurance Company, including, without limitation, recoveries of extracontractual damages. Reorganized ASARCO shall be obligated to compensate the Asbestos Trust for all costs and expenses reasonably incurred in connection with providing assistance to Reorganized ASARCO 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 and Unknown Asbestos 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; or

(b) 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.

Provided, however, that in no circumstances shall the Asbestos Trust dissolve prior to the dissolution of the Liquidation Trust and/or the SCC Litigation Trust.

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.

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 (A) the amount of any Cure Amount Claim; (B) 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 (C) 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 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 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 Plan Sponsor PSA.

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

(a) Unless otherwise provided in Article 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 Plan Sponsor PSA) or is entered into by ASARCO after the Petition Date as described in section 3.1(e)(B) of the Plan Sponsor PSA shall be assigned to, and such Debtor's obligations thereunder assumed by, the Plan Sponsor in accordance with the Plan Sponsor PSA; *provided, however*, that any such Contract entered into after the date of the 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 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 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.

8.9. Bonds and Assurances. Pursuant to section 8.9 of the 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 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 CONFIRMATION AND EFFECTIVENESS

9.1. Conditions to Confirmation. The following are conditions precedent to Confirmation that must be satisfied or waived by the Plan Sponsor in accordance with Article 9.2:

(a) The Bankruptcy Court shall have approved the Disclosure Statement.

(b) As of the Confirmation Date, all the representations and warranties of the Debtors contained in the Sterlite 2009 PSA are true and correct, and that the Sellers shall have performed all obligations required by the Sterlite 2009 PSA; *provided, however*, that this condition shall be deemed to have been satisfied so long as any failure of such representations and warranties to be true and correct, or failure by the Sellers to perform such obligations, would not reasonably be expected to have, individually or in the aggregate, a Seller Material Adverse Effect as that term is defined in the Sterlite 2009 PSA.

(c) No Seller Material Adverse Effect shall have occurred since April 30, 2008, and shall be continuing.

(d) The Debtors' liability on account of the Assumed Environmental Liabilities (as that term is defined in the Plan Sponsor PSA) has not materially increased since April 30, 2008

(e) There has been no material deterioration in the physical condition of the Sold Assets since April 30, 2008.

(f) The Debtors shall have given the Plan Sponsor and its consultants complete and unfettered access to inspect the Sold Assets and the Plan Sponsor has determined, in its sole discretion, that the physical condition of the Sold Assets has not materially deteriorated since April 2008.

(g) The Plan Sponsor is satisfied in its reasonable judgment that the Confirmation Working Capital is not less than 90% of the Agreed Working Capital.

9.2. Waiver of Conditions Precedent to Confirmation. The Plan Sponsor may waive any of the conditions to Confirmation set forth in Article 9.1 at any time, without any notice to parties-in-interest and without any further notice to or action, order or approval of the Bankruptcy Court and without any formal action other than proceeding to confirm the Plan.

9.3. 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 prior to August 1, 2009 and shall not occur until and unless each of the following conditions to effectiveness have been satisfied or waived pursuant to this Article 9.3 of this Plan:

(a) *Confirmation Findings and Conclusions.*

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

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

(2) This Plan complies with all applicable sections of the Bankruptcy Code, and the Debtors have complied with all applicable sections of the Bankruptcy Code;

(3) The 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;

(4) 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

(5) 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.

(b) *Confirmation Order.*

The Confirmation Order entered or affirmed by the District Court (1) provides that the Plan Sponsor has no liability on account of any claims against the Debtors, including, without limitation, on account of any theories of successor liability, (2) is acceptable to the Debtors, (3) to the extent the Confirmation Order relates to the Plan Sponsor PSA, the Plan Sponsor (and the Guarantors), or the transactions contemplated by the Plan Sponsor PSA, is reasonably satisfactory to the Proponent, (4) provides for the payment of the reasonable fees and expenses of the Harbinger Master Fund and Citigroup Global Markets, Inc. incurred in the development, preparation, prosecution and confirmation of the Plan, and (5) provides that if, notwithstanding confirmation of the Plan, the Plan Sponsor breaches the PSA, the Plan Sponsor shall not be liable for any damages in excess of the liquidated damages provided for in the PSA and under no circumstances shall the claims of the Bondholders be disallowed or subject to less favorable treatment in this Plan or any other or future plan on account of such breach. In addition, the Confirmation Order shall conform with the requirements of such an order in the Plan Sponsor PSA, including, without limitation the requirements of the Plan Confirmation Order (as defined in the Plan Sponsor PSA).

(c) *No Stay.*

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

(d) *Plan Documents.*

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

(e) *Funding of the Trusts.*

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

(f) *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.

(g) *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.

(h) *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.

(i) *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 Plan Sponsor PSA.

(j) *Estimation or Settlement of Asbestos Personal Injury Claims.*

An estimation is made regarding ASARCO's liability on account of Asbestos Personal Injury Claims and Unknown Asbestos Claims by the Bankruptcy Court pursuant to its estimation order, following an evidentiary hearing; *provided, however*, if the parties reach agreement regarding the aggregate Allowed Amount of such Claims for purposes of this Plan, such amount shall be approved by the Bankruptcy Court in accordance with such procedures as the Bankruptcy Court shall require, including the presentation of supporting evidence regarding such settlement and *provided, further*, that the estimated amount of such liabilities shall not exceed \$500 million in the aggregate.

(k) *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.

(l) *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 Plan Sponsor PSA, shall have been terminated or expired.

9.4. Waiver of Conditions to Effectiveness. The Proponent, in its sole discretion, may waive any condition to effectiveness in Article 9.3 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 Debtors, 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 9.3(f), (g), (j), (k) and (m);

(b) the Asbestos Claimants' Committee and the FCR must consent to any waiver of any of the conditions to effectiveness set forth in Article 9.3(g); and

(c) the Plan Sponsor must consent to any waiver of any of the conditions to effectiveness set forth in Article 9.3(c), (d), (g), (i), and (l);

and *provided further* that in each instance described in clauses (a), (b), and (c) of this Article 9.4, such consent shall not be unreasonably withheld, delayed, or conditioned.

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

9.6. 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 Plan Sponsor PSA and the Ancillary Agreements entered into in connection therewith.

(b) Pursuant to section 4.1 of the 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 an amount equal to: (A) \$500 million and (B) the assumption by the Plan Sponsor of the Assumed Liabilities.

(c) Pursuant to section 3.5(d) of the 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 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 by the Bankruptcy Court in the Confirmation Order, the Plan Administrator, as chosen by the Plan Sponsor, 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.

10.3. Resolution of Present and Future Asbestos Claims. This Plan contemplates that, prior to the Confirmation Hearing, the Bankruptcy Court shall estimate the amount of the liability of ASARCO on account of Asbestos Personal Injury Claims and Unknown Asbestos Claims pursuant to its estimation order, following an evidentiary hearing; *provided, however*, if the parties reach an agreement regarding the aggregate Allowed Amount of such Claims for purposes of the Plan, such amount shall be approved by the Bankruptcy Court in accordance with such procedures as the Bankruptcy Court shall require, including the presentation of supporting evidence regarding such 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, the Debtors shall transfer to the Asbestos Trust (i) all of the interests in Reorganized Covington and (ii) the Class 4 Pro Rata Share of the Plan Consideration and (iii) Cash in an amount ordered by the Bankruptcy Court for payment of the Administrative Expenses of 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 if AMC makes the payment due in May 2009 prior to the Effective Date and \$25 million plus accrued interest in accordance with the note if AMC has not made the payment due in May 2009 prior to the Effective Date), and place such amount in the Prepetition ASARCO Environmental Trust Escrow. In the event that AMC fails to make any of the payments 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 amounts owed by AMC. Upon AMC's payment of amounts 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 Proponent, and except to the extent otherwise provided herein, on the Effective Date, 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 Other Subsidiary Debtors (Other than Covington) and Alternatives Thereto, and Merger of the Asbestos Subsidiary Debtors into Covington.

(a) On the Effective Date, the Estates of the Other 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 Other 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 Other Subsidiary Debtors (other than Covington) become the assets and liabilities of ASARCO; and (3) each Proof of Claim filed against any of the Other Subsidiary Debtors (other than Covington) is deemed filed against and an obligation of ASARCO.

(b) Alternatively, the Proponent reserves the right to consolidate the Other 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) On the Effective Date, the Estates of the Asbestos Subsidiary Debtors shall be consolidated into Covington pursuant to section 1123(a)(5)(C) of the Bankruptcy Code, with Reorganized Covington as the surviving entity.

(d) As another alternative, the Proponent reserves the right to proceed with this Plan as to only ASARCO and any one or more of the Subsidiary Debtors that ASARCO designates. Thereafter, the Subsidiary Debtors not included in this Plan with ASARCO 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.

(e) If Proponent elects to proceed to Confirmation without the Asbestos Subsidiary Debtors, Proponent may modify this Plan, which modification may include provisions such that:

- if necessary or appropriate, the Asbestos Subsidiary Debtors may not be merged into Covington;
- if necessary or appropriate, all or a part of ASARCO's interest in the Asbestos In-Place Insurance Coverage, any Asbestos Insurance Policy, any Asbestos Insurance Recovery or Recoveries, or any Asbestos Insurance Settlement Agreement may be assigned by ASARCO to the Asbestos Subsidiary Debtors;
- if necessary or appropriate, one or more Asbestos Insurance Companies may be excluded from the definition of ASARCO Protected Parties and the Asbestos Insurance Company Injunction might not be issued with respect to such company;
- if necessary or appropriate, one or more of the Asbestos Insurance Actions may be retained by the Asbestos Subsidiary Debtors;
- if necessary or appropriate, the Intercompany Claims between any Asbestos Subsidiary Debtor and ASARCO (including any Administrative Claim of ASARCO against any Asbestos Subsidiary Debtor) may be determined by the Court, and if it is determined that a net amount is owed by ASARCO to the Asbestos Subsidiary Debtors, such Claims would be paid as Class 4 Claims under this Plan.

Proponent shall provide appropriate notice of any such modification as required by the Court.

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. 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 director of Reorganized ASARCO (unless and until additional officers and directors 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 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 Plan Sponsor PSA).

10.19. Revesting of Assets. 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). 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, the Asbestos Insurance Policies, the Asbestos Insurance Recoveries, the Asbestos In-Place Insurance Coverage, the Asbestos Insurance Actions, 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. The rights, title, and interests of the Asbestos Subsidiary Debtors in the Asbestos Insurance Policies, the Asbestos Insurance Recoveries, the Asbestos In-Place Insurance Coverage, and the Asbestos Insurance Actions shall vest in Reorganized ASARCO, and the Asbestos Subsidiary Debtors shall have no remaining interests therein.

10.20. Vesting and Enforcement of Causes of Action.

(a) The Vested Causes of Action (as listed in **Exhibit 14-A**), including, without limitation, the Debtors' respective rights, title, and interests in and to the Asbestos Insurance Actions, 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**) 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**) 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 Asbestos Subsidiary Debtors' respective rights, title, and interests in and to the causes of action listed in **Exhibit 14-D** shall vest in Reorganized Covington. Reorganized Covington 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**) 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 Proponent, the Plan Sponsor, the Debtors, the Reorganized Debtors, the Plan Administrator, or the Trustees 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), 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 and Interests shall be in exchange for and in complete satisfaction, discharge, and release of all Claims 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 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 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 discharged and released in Article 11.1.

11.3. Channeling Order – Unknown Asbestos Claims.

(a) *Injunction and Channeling Order.*

Pursuant to Article 7 of the Plan, all Persons who have held, hold or may hold Unknown Asbestos Claims are made beneficiaries of the Asbestos Trust and, so long as there are assets in or available to the Asbestos Trust, are enjoined on and after the Confirmation Date from commencing or continuing in any manner any action or other proceeding of any kind with respect to such Unknown Asbestos Claims against the Debtors, the Plan Sponsor, or any other ASARCO Protected Party.

(b) *Limitations on Injunction and Channeling Order Regarding Unknown Asbestos Claims.*

Nothing contained in Section 11.3(a) of this Plan shall preclude an Unknown Asbestos Claimant from pursuing its rights, if any, under applicable non-bankruptcy law against any Person who may be liable to such Unknown Asbestos Claimant, if assets available to the Asbestos Trust have been exhausted.

11.4. Asbestos Insurance Company Injunction.

(a) *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 or cause of action (including, without limitation, any Unsecured Asbestos Personal Injury Claim 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, 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 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 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 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 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 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 or cause of action.

11.5. 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 to assert Unsecured Asbestos Personal Injury Claims against the Asbestos Trust in accordance with the Asbestos TDP;

B. the rights of Entities to assert any Claim, 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 right of Reorganized ASARCO with regard to any Asbestos Insurance Company that is not a Settling Asbestos Insurance Company;

E. the rights of Entities to assert any Claim, 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 right of Reorganized ASARCO 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.

11.6. 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, 11.3 and 11.4 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 in accordance with the Asbestos TDP or (b) Asbestos Trust Expenses, and such releases and Injunctions shall not enjoin Reorganized ASARCO from enforcing any Asbestos Insurance Policy or any Asbestos Insurance Settlement Agreement.

11.7. Exoneration and Reliance. To the fullest extent allowable by law, no ASARCO Protected Party or 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 or Interest or any other Entity with respect to any action, omission, forbearance from action, decision, or exercise of discretion taken at any time 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 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.

11.8. Fee Shifting. If any holder of a Claim 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 11.7 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 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 or Interest, or other Entity shall, at the outset, be required to provide appropriate proof and assurances of his, her, or its capacity to make such payment of reasonable attorneys' fees and costs in the event the holder or other Entity fails to prevail. In order for a holder of a Claim 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 11.8 shall 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 or Interest or other Entity prevails in an action, suit, or proceeding that is filed against such ASARCO Protected Party.

11.9. 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 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 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 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 11.9 shall impair or otherwise affect the rights of 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 11.9 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.

11.10. Exculpation Injunction and Indemnities.

- (a) *Exculpation Injunction.*

Except as provided in Section 11.3, 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 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 11.7, 11.9, or 11.11 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 11.10 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 not less than 10 days prior to the commencement 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 11.10, 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 11.10. 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 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.

11.11. Consensual Releases by Holders of Claims 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 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 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 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 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, (1) any of the Debtors, (2) any of the Reorganization Cases, (3) the subject matter of, or the transactions or events giving rise to, any Claim or Interest, (4) the business or contractual arrangements between any Debtor and any ASARCO Protected Party, (5) the restructuring of Claims and Interests prior to or in any of the Reorganization Cases, (6) the negotiation, formulation, or preparation of this Plan, the Plan Documents or related agreements, instruments, or other documents, or (7) any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; provided that the above described release shall apply to all holders of Claims and Interests irrespective of how such parties vote (or whether such parties vote) in connection with the Plan, to the extent that such release relates to any of the above described conduct by any ASARCO Protected Party that has been the subject of a release by the Debtors which has been approved by the Bankruptcy Court. Notwithstanding the foregoing, this release shall not apply to Claims 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 11.11 shall impair or otherwise affect the right of 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.*

11.12. Release of Fraudulent Transfer Claims Against Settling Asbestos Insurance Companies. Except as otherwise provided in this Article 11.12, 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 Reorganized ASARCO 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 11.12 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-A** hereto.

11.13. 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 (a) precludes the enforcement of the Hayden Settlement Agreement, the Mission Mine Settlement Agreement, or the Arizona NRD Settlement Agreement as provided therein; (b) 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; (c) 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; (d) 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; (e) 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; (f) 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; (g) precludes enforcement by the United States or a state of any requirements under an Environmental Custodial Trust Agreement against an Environmental Custodial Trustee; or (h) 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.

11.14. 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.

11.15. 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.

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, 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 Reorganized ASARCO is 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 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 Reorganized ASARCO for the benefit of holders of Claims in Class 3. On or after the Effective Date, the Plan Administrator on behalf of Reorganized ASARCO shall be entitled, in the Plan Administrator's 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 into the Vested Causes of Action Escrow.

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) 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.

(c) 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.

(d) 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.

(e) 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.

ARTICLE XIII

PROVISIONS GOVERNING DISTRIBUTIONS

13.1. Plan Distributions. Distributions to holders of Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims 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; *provided, however*, that with respect to Bondholders' Claims, 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 a duly executed letter of transmittal. No such additional distributions will be made until the receipt by the Plan Administrator of a completed letter of transmittal with all required signatures and documents. Pending receipt of such letter of transmittal, any such distributions shall be held in reserve by the Plan Administrator. For avoidance of doubt, any and all distributions to holders of Asbestos Personal Injury Claims and Unknown Asbestos Claims shall be made by the Asbestos Trust.

(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 distributions on account of Allowed Bondholders' Claims shall be made: (1) to the respective Indenture Trustee for the particular issue of Bonds, as the case may be, or (2) with the prior written consent of the Indenture Trustee, through the facilities of DTC (if applicable) or, in the case of Liquidation Trust Interests and SCC Litigation Trust Interests, in accordance with the instructions contained in a duly executed letter of transmittal. No Liquidation Trust Interests or SCC Litigation Trust Interests shall be issued 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 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, 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 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 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 section 502(c) of the Bankruptcy Code; or (3) the amount otherwise agreed to by the Debtors 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.

(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, Unknown Asbestos Claims 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 Unknown Asbestos Claims 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 Unknown Asbestos Claims, 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 Unknown Asbestos Claims 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.

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 Unknown Asbestos Claims, 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 Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims) 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 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;
 - (1) 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;
 - (2) 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;
 - (3) 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;

(b) 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;

(c) hear and determine disputes arising in connection with the execution, interpretation, implementation, consummation, or enforcement of the 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;

(d) 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;

(e) 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;

(f) 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;

(g) 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;

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

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

(j) 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;

(k) 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;

(l) 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;

(m) 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;

(n) 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;

(o) 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;

(p) 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;

(q) 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;

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

(s) 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;

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

(u) 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;

(v) 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;

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

(x) 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. 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.

15.5. Modification of Plan. The Proponent 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 reserves its 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. After the Confirmation Date, the Proponent 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 Guarantors, or on the ability to consummate the transactions contemplated by the Plan Sponsor PSA.

15.6. Revocation, Withdrawal, or Non-Consummation. The Proponent reserves the right to revoke, amend, or withdraw this Plan prior to the Confirmation Hearing and to file subsequent plans of reorganization. If the Proponent revokes or withdraws 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 (i) constitute a waiver or release of any Claims by or against, or Interests in, such Debtors or any other Person, (ii) prejudice in any manner the rights of such Debtors or any other Person, or (iii) constitute an admission of any sort by the Debtors or any other Person.

15.7. 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.

15.8. 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.

15.9. 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 Proponent 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.

15.10. 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.

15.11. 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.

15.12. 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.

15.13. 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 through the Effective 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 in administering distributions to the Bondholders or responding to any objection by the Debtors to an Indenture Trustee Fee Claim, 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.

15.14. 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.

15.15. 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, and the FCR 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, and the FCR 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.

15.16. 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.

15.17. 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.

15.18. 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.

15.19. Waiver of Rights. Holders of Claims 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.

15.20. 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:

The Debtors

Jack L. Kinzie
Baker Botts L.L.P. 2001 Ross Avenue Dallas,
TX 75201-2980
Facsimile: (214) 661-4727
Email: jackkinzie@bakerbotts.com

Shelby A. Jordan
Jordan, Hyden, Womble, Culbreth & Holzer, P.C.
Suite 900, Bank of America

500 North Shoreline
Corpus Christi, TX 78471
Facsimile: (361) 888-5555
Email: sjordan@jhwclaw.com

Counsel for the ASARCO Committee

Paul M. Singer
Reed Smith LLP
435 Sixth Avenue
Pittsburgh, PA 15219
Facsimile: (412) 288-3063
Email: psinger@reedsmith.com

James C. McCarroll
Reed Smith LLP
599 Lexington Ave. 29th Floor
New York, NY 10022
Facsimile: (212) 521-5450
Email: jmccarroll@reedsmith.com

Derek J. Baker
Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103
Facsimile: (215) 851-1420
Email: dbaker@reedsmith.com

Counsel for the Asbestos Subsidiary Committee and the Asbestos Claimants' Committee

Sander L. Esserman
Steven A. Felsenthal
Stutzman, Bromberg, Esserman & Plifka, PC
2323 Bryan Street, Suite 2200
Dallas, TX 75201-2689
Facsimile: (214) 969-4999
Email: esserman@sbep-law.com
felsenthal@sbep-law.com

The FCR

Judge Robert C. Pate
Frost Bank Plaza
802 North Carancahua, Suite
1350 Corpus Christi, TX 78470-

0165 Facsimile: (361) 887-6207
Email: judgepate@swbell.net

John H. Tate, II
Oppenheimer, Blend, Harrison & Tate, Inc.
711 Navarro Street, Sixth Floor
San Antonio, TX 78205
Facsimile: (210) 224-7540
Email: jtate@obht.com

The DOJ

David L. Dain
Alan S. Tenenbaum
United States Department of Justice
Environmental Enforcement Section
Regular Mailing Address:
Ben Franklin Station P.O.
Box 7611
Washington, DC 20044
Overnight Mailing Address:
601 D Street NW
Washington, DC 20004
Facsimile: (202) 514-4180 (Mr. Dain)
(202) 514-0097 (Mr. Tenenbaum)
Email: david.dain@usdoj.gov
alan.tenenbaum@usdoj.gov

Counsel for the Plan Sponsor

Thomas Moers Mayer
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036
Telephone: (212) 715-9100
Facsimile: (212) 715-8000
Email: tmayer@kramerlevin.com

Phillip L. Lamberson
J. Frasher Murphy
Winstead PC
5400 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270
Telephone: (214) 745-5400
Facsimile: (214) 745-5390
Email: plamberson@winstead.com

fmurphy@winstead.com

15.21. 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 regarding Asbestos Books are set forth in Article 7.13 above.

Dated: May __, 2009

Respectfully submitted,

HARBINGER CAPITAL PARTNERS
MASTER FUND I, LTD.

By: _____

Name:

Title:

ANNEX 1

Uniform Glossary of Defined Terms for Plan Documents

Unless the context otherwise requires or a Plan Document otherwise provides, the following terms, when used in initially capitalized form in the Plan, Disclosure Statement, related exhibits, and Plan Documents, shall have the following meanings. Such meanings shall be equally applicable to both the singular and plural forms of such terms. Any term used in capitalized form that is not defined herein but that is defined in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term by the Bankruptcy Code or the Bankruptcy Rules (with the Bankruptcy Code controlling in the event of a conflict or ambiguity). If the Glossary adopts the meaning assigned to a term in the Plan Sponsor PSA, the Plan Sponsor PSA's definition of that term shall control in the event of a conflict between that definition and the definition set forth in this Glossary for informational purposes. The rules of construction set forth herein and in section 102 of the Bankruptcy Code shall apply. All references to the "Plan" shall be construed, where applicable, to include references to the Plan and all its exhibits, appendices, schedules, and annexes (and any amendments made in accordance with their terms or applicable law).

GLOSSARY OF TERMS

1. "2005 Subsidiary Debtors" means the Subsidiary Debtors (other than the Asbestos Subsidiary Debtors) that filed bankruptcy cases in 2005, including, without limitation, ASARCO Consulting, Inc.; Encycle, Inc.; ALC, Inc.; American Smelting and Refining Company; AR Mexican Explorations Inc.; Asarco Master, Inc.; Asarco Oil and Gas Company, Inc.; Bridgeview Management Company, Inc.; Covington Land Company; and Government Gulch Mining Company, Limited.

2. "2006 Subsidiary Debtors" means the Subsidiary Debtors that filed bankruptcy cases in 2006, including, without limitation, Southern Peru Holdings, LLC; AR Sacaton, LLC; and ASARCO Exploration Company, Inc.

3. "2008 Subsidiary Debtors" means the Subsidiary Debtors that filed bankruptcy cases in 2008, including, without limitation, Green Hill Cleveland Mining Company; Alta Mining and Development Company; Blackhawk Mining and Development Company, Limited; Peru Mining Exploration and Development Company; Tulipan Company, Inc.; and Wyoming Mining and Milling Company.

4. "Acquisition Proposal" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any proposal or offer for a merger, recapitalization, share exchange, debt-for-equity exchange, distribution of securities for the benefit of the stakeholders of ASARCO, consolidation, or similar transaction involving a sale or purchase (directly or through a proposed investment in equity securities, debt securities, or claims of creditors) of all or substantially all of the Sold Assets, or all or substantially all of the equity securities of ASARCO or of the Non- Debtor Sellers, other than the transactions contemplated by the terms of the Plan Sponsor PSA. For the avoidance of doubt, an Acquisition Proposal does not include a proposal or offer for a Stand-Alone Plan.

5. “ADEQ” means the Arizona Department of Environmental Quality.

6. “Adjustment Amount” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means, as of the date that a binding determination of the Closing Accounts Amount (as such term is defined in Exhibit E to the Plan Sponsor PSA) has been made in accordance with section 4.4 of the Plan Sponsor PSA, the product of (a) 1.6 multiplied by (b) Agreed Working Capital minus Closing Accounts Amount. In all cases, the Adjustment Amount shall be expressed as a positive number.

7. “Administrative Claim” means any Claim for the payment of an Administrative Expense.

8. “Administrative Expense” means (a) any cost or expense of administration of the Reorganization Cases incurred before the Effective Date and allowable under section 503(b) of the Bankruptcy Code and entitled to priority under section 507(a)(1) of the Bankruptcy Code including, without limitation, (i) any actual and necessary postpetition cost or expense of preserving the Estates or operating the businesses of the Debtors, (ii) any payment required to cure a default on an assumed executory contract or unexpired lease, (iii) any postpetition cost, indebtedness, or contractual obligation duly and validly incurred or assumed by a Debtor in the ordinary course of its business, and (iv) compensation or reimbursement of expenses of professionals to the extent allowed by the Bankruptcy Court under sections 330(a) or 331 of the Bankruptcy Code; (b) any fee or charge assessed against the Estates under 28 U.S.C. § 1930; and (c) the Pre-524(g) Indemnity (as defined in the Asbestos Insurance Settlement Agreement), which shall constitute an Allowed Administrative Claim in accordance with the terms and conditions of such agreement.

9. “Affiliate” (and, with a correlative meaning, “affiliated”) shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means, with respect to any Person (as such term is defined in the Plan Sponsor PSA), (a) any other Person that directly, or through one or more intermediaries, controls or is controlled by or is under common control with such Person or (b) any Subsidiary of such Person. As used in this definition, “control” (including with correlative meanings, “controlled by” and “under common control with”) means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by Contract or otherwise).

10. “Agreed Working Capital” shall have the meaning assigned to such term in the Plan Sponsor PSA.

11. “AIG” means American International Group, Inc.

12. “Allowed” means a Claim that is not a Disputed Claim and, with respect to any other Claim (other than an Unsecured Asbestos Personal Injury Claim) or Interest, (a) any Claim or Interest, proof of which was timely filed with the Bankruptcy Court or the Claims Agent, or, by order of the Bankruptcy Court, was not required to be filed, (b) any Claim or Interest that has been, or hereafter is, listed in the Schedules as liquidated in amount and not disputed or contingent, provided that any discrepancy between the Claim as listed in the Schedules and a

Proof of Claim filed in connection with such Claim shall be resolved pursuant to the procedures set forth in Article XIV of the Plan, and, in (a) and (b) above, as to which (i) during the period prior to the deadline for filing objections to Proofs of Claim as set forth in Article 14.2 of the Plan, the Claim or Interest has been allowed by a Final Order or in a settlement approved by the Confirmation Order (but only to the extent so allowed), or (ii) after the deadline for filing objections to Proofs of Claim, either no objection to the allowance thereof was filed prior to the Claims objection deadline or the Claim or Interest has been allowed by a Final Order or in a settlement approved by the Confirmation Order (but only to the extent so allowed). “Allowed” means, with respect to any Demand or Unsecured Asbestos Personal Injury Claim, any Demand or Unsecured Asbestos Personal Injury Claim that is liquidated and allowed pursuant to the Asbestos TDP. “Allowed” also includes (a) all Claims allowed by the Bankruptcy Court by approval of: (i) the Miscellaneous Federal and State Environmental Settlement Agreement, (ii) the Residual Environmental Settlement Agreement, (iii) the Arizona NRD Settlement Agreement, (iv) the Hayden Past Cost Settlement Agreement, and (v) the Mission Mine Settlement Agreement; and (b) all Previously Settled Environmental Claims.

13. “Allowed Amount” of any Claim means the amount at which that Claim is Allowed (excluding any post-petition interest).

14. “Alter Ego Theories” means theories asserting that a Debtor should be held liable for the Claims against one or more other Debtors on the ground that it was their alter ego, including, without limitation, denuding-the-corporation, single-businessenterprise, corporate trust funds, breach of fiduciary duty or conspiracy, theories that a Debtor was the mere instrumentality, agent, or alter ego of another Debtor, or that the corporate veil should be pierced, or that as a result of domination and control over any of the Debtors, directly or indirectly, another Debtor should be liable for Asbestos Personal Injury Claims or any other Claims that have origins in acts or omissions of any of the other Debtors, or any other theories of direct or indirect liability for the conduct of, Claims against or on, any of the other Debtors to the extent that such alleged liability arises by reason of any of the other circumstances enumerated in section 524(g)(4)(A)(ii) of the Bankruptcy Code.

15. “AMC” means Americas Mining Corporation, a Delaware corporation.

16. “AMC Consolidated Group” means the affiliated group of corporations having AMC as the common parent and including ASARCO NJ Subgroup and the ASARCO LLC Subgroup.

17. “Ancillary Agreements” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the Assignment and Assumption Agreement, the Bill of Sale, the Transition Services Agreement, the Patent Assignment, the Trademark Assignment, the Deeds, the Leasehold Deeds, the Mortgages, and the Assignment and Assumption of Ground Lease Agreement (as each such term is defined in the Plan Sponsor PSA).

18. “Applicable Law” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means, with respect to any Person (as such term

is defined in the Plan Sponsor PSA), any Law applicable to such Person or its business, properties, or assets.

19. “AR Sacaton” means AR Sacaton, LLC, a Delaware limited liability company.
20. “Arizona NRD Settlement Agreement” means the Settlement Agreement Regarding Natural Resource Damage Claims for Mineral Creek, the Gila River, and the San Pedro River, Arizona, by and among the United States, the State of Arizona, and ASARCO, which resolves all Claims against ASARCO related to natural resource damages for the sites addressed therein, referenced in the motion for approval thereof filed on March 30, 2009 [Docket No. 10657] and approved by order entered on April 23, 2009 [Docket No. 10949].
21. “ARSB” means AR Silver Bell, Inc., a Delaware corporation.
22. “ASARCO” means ASARCO LLC, a Delaware limited liability company.
23. “ASARCO Committee” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee in ASARCO’s bankruptcy case pursuant to section 1102 of the Bankruptcy Code.
24. “ASARCO LLC Subgroup” means ASARCO LLC and its subsidiaries.
25. “ASARCO Master” means ASARCO Master, Inc. (f/k/a Asarco (Delaware), Inc.), a Delaware corporation and one of the Debtors herein. A number of entities were merged into ASARCO Master prior to the Petition Date, including, without limitation, AR Montana Corporation; Asarco Arizona, Inc.; Asarco Exploration Holdings Company, Inc.; Asarco Aginskoe, Inc.; Asarco de Mexico (Delaware) Inc.; Asarco Mexicana (Delaware) Inc.; Asarco Peruvian Exploration Company; GH Holdings Inc.; GHH, LLC; Northern Peru Mining Corporation; NPMC, Incorporated; Domestic Realty Company, Inc.; Midland Coal Company Incorporated; Biotrace Laboratories, Incorporated; Federated Metals Corporation; and LSLC Corp.
26. “ASARCO NJ” means the former ASARCO Incorporated, a New Jersey corporation, a predecessor of ASARCO LLC.
27. “ASARCO NJ Consolidated Group” means the affiliated group of corporations consisting of ASARCO NJ and its subsidiaries for years before 1999.
28. “ASARCO NJ Subgroup” means ASARCO NJ and its subsidiaries.
29. “ASARCO Protected Non-Debtor Affiliate” means an entity listed on **Exhibit 1** to the Plan as such list may be amended or supplemented from time to time.
30. “ASARCO Protected Parties” (each one, an “ASARCO Protected Party”) means (a) the Debtors and their predecessors; (b) the Reorganized Debtors; (c) the ASARCO Protected Non-Debtor Affiliates and their predecessors; (d) the Plan Sponsor and the Harbinger Master Fund (and any of their respective Affiliates); (e) Settling Asbestos Insurance Companies; (f) the Trusts (except to the extent that the Asbestos Trust Agreement, the Asbestos TDP, or both

expressly permit litigation against the Asbestos Trust); (g) the Trustees; (h) the Asbestos TAC; (i) the FCR; (j) the Committees, including their members in their member capacities; (k) the Plan Administrator; (l) the Examiner; (m) employee benefit plan “fiduciaries” (within the meaning of section 3(21) of ERISA) who are directors or employees of a Debtor; (n) the Indenture Trustees; and (o) the present and former directors, officers, agents, attorneys, accountants, consultants, financial advisors, investment bankers, professionals, experts, and employees of any of the foregoing, in their respective capacities as such, including, without limitation, the Protected Officers and Directors; *provided, however*, that the term “ASARCO Protected Party” does not include (x) the non-Debtor named defendants in the Derivative D&O Litigation, the Burns Litigation, or the SCC Litigation or (y) Grupo Mexico and its Affiliates other than ASARCO and ASARCO’s direct and indirect subsidiaries.

31. “ASARCO Residual Assets” means all assets of ASARCO and the Other Subsidiary Debtors (including, without limitation, the Property of the Estate of such debtors) other than the Sold Assets, the Asbestos Trust Assets, the Liquidation Trust Assets, the SCC Litigation Trust Assets, the Environmental Custodial Trust Assets, and the Covington Residual Assets.

32. “Asbestos/AMC/Parent Agreement in Principle” means the Agreement in Principle Regarding Summary Terms of Chapter 11 Plan for ASARCO LLC and Subsidiaries among the Asbestos Subsidiary Committee, the FCR, AMC, and the Parent, as filed in redacted form on April 17, 2009 [Docket No. 10873].

33. “Asbestos Books” means all of the books and records of each of the Debtors and Reorganized ASARCO, wherever located, to the extent that such books and records directly relate to (a) Asbestos Trust Assets; or (b) any Unsecured Asbestos Personal Injury Claims, including all historical information relating to (i) Asbestos Personal Injury Claims, (ii) the settlement of any such Claims, or (iii) relevant sales of asbestos or asbestos-containing products.

34. “Asbestos Claimants’ Committee” means the Official Committee of Asbestos Claimants appointed by the U.S. Trustee in the Reorganization Cases pursuant to section 1102 of the Bankruptcy Code and the August 26, 2008 order entered by the Bankruptcy Court.

35. “Asbestos In-Place Insurance Coverage” means any insurance coverage, not reduced to Cash proceeds, that is or may be available as of the Effective Date to address asbestos-related Claims, remedies, and liabilities under any Asbestos Insurance Policy as a result of or in accordance with an Asbestos Insurance Settlement Agreement or a prepetition settlement agreement with an Asbestos Insurance Company.

36. “Asbestos Insurance Action” means (a) any Avoidance Action against any Asbestos Insurance Company; (b) any claim, cause of action, or right of a Debtor or a Reorganized Debtor against any Asbestos Insurance Company concerning insurance coverage for asbestos-related Claims, remedies, and liabilities or enforcement of prepetition settlement agreements or extracontractual or statutory remedies and relief, including, without limitation, litigation, arbitration, mediation, and informal negotiations, whether past, pending, or not yet initiated; and (c) any claim, cause of action, or right of a Debtor or a Reorganized Debtor to pursue insurance recovery through available administrative or other means from any Asbestos

Insurance Company that is insolvent, or has been liquidated, or is otherwise subject to statutory or legal protections against litigation.

37. “Asbestos Insurance Company” means any insurance company, reinsurance company, syndicate, insurance broker, syndicate insurance broker, guaranty association, or any other Entity with demonstrated or potential liability to a Debtor or a Reorganized Debtor for coverage under an Asbestos Insurance Policy arising from or related to asbestos- related Claims, remedies, or liabilities, including, without limitation, any such Entity that entered into a prepetition settlement agreement with a Debtor that is currently the subject of an Avoidance Action.

38. “Asbestos Insurance Company Injunction” means the injunction set forth in Article 11.3(b) of the Plan in favor of the Settling Asbestos Insurance Companies.

39. “Asbestos Insurance Policy” means any insurance policy that provides or may provide coverage for claims arising from or related to asbestos-related Claims, remedies, or liabilities, whether products or premises, and that are or may become available to provide such coverage as a result of the resolution of any Avoidance Actions against any Asbestos Insurance Company, including those policies listed on **Exhibit 8** to the Plan, as such exhibit may be amended or supplemented from time to time.

40. “Asbestos Insurance Recovery or Recoveries” means (a) the right to pursue and receive the benefits and proceeds of Asbestos In-Place Insurance Coverage, including, without limitation, the benefits and proceeds from certain Asbestos Insurance Policies that are subject to prepetition settlement agreements regarding Asbestos Premises Liability Claims; (b) the right to pursue and receive the benefits and proceeds of any Asbestos Insurance Policy or Asbestos Insurance Settlement Agreement; (c) the right to pursue and receive recovery from or as a result of any Asbestos Insurance Action, including, without limitation, consequential, contractual, extracontractual, and statutory damages, or other proceeds, distributions, awards, or benefits; and (d) the right to pursue and receive any other recovery from an Asbestos Insurance Company, in its capacity as such.

41. “Asbestos Insurance Settlement Agreement” means any post-petition settlement agreement, set forth on **Exhibit 7** to the Plan, with a Settling Asbestos Insurance Company as such exhibit may be amended or supplemented from time to time as permitted under the Plan.

42. “Asbestos Personal Injury Claim(s)” means any unpaid Claim, remedy or liability, including all related claims, debts, obligations or liabilities, whenever and wherever arising or asserted, whether arising or accruing before or after the Petition Date, whether under a direct or indirect theory of liability, whether domestic or foreign, whether now existing or hereafter arising, whether or not such Claim, remedy, or liability is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, bonded, secured, or unsecured, whether or not the facts or legal bases therefore are known or unknown, whether or not known, unknown, or knowable before Confirmation of the Plan or the close of the Reorganization Cases, whether based on premises or products liability, alleging, arising out of, or in any way relating to physical, emotional, economic, or any other damage or injury for which any Debtor is alleged to be liable, whether direct or indirect and whether alleged or asserted

against ASARCO or any other Debtor directly or on account of any Alter Ego Theory, arising out of or in any way relating to asbestos or any products or materials containing asbestos. Asbestos Personal Injury Claims include all such Claims, remedies, and liabilities whether in tort, contract, warranty, restitution, conspiracy, contribution, indemnity, guarantee, subrogation, joint and several liability, reimbursement, or any other theory of law, equity, admiralty, or otherwise, whether seeking compensatory, special, economic and non-economic, punitive, exemplary, administrative, proximate, or any other costs or damages; or whether seeking any legal, equitable, or other relief of any kind whatsoever, whether under common law or by statute, including any Claim by an employee that is not otherwise barred by applicable law such as workers' compensation laws.

43. "Asbestos Personal Injury Claimant" means the holder of an Asbestos Personal Injury Claim.

44. "Asbestos Personal Injury Claims Fund" means the fund to be created by the Asbestos Trust for payment of all Unsecured Asbestos Personal Injury Claims other than Asbestos Premises Liability Claims.

45. "Asbestos Premises Liability Claim(s)" means any and all Unsecured Asbestos Personal Injury Claims against ASARCO that are identified as premises claims under the terms and conditions of the Asbestos Insurance Policies, specifically including, without limitation, such policies that are subject to prepetition settlement agreements for premises claims.

46. "Asbestos Premises Liability Claims Fund" means the fund to be created by the Asbestos Trust for payment of all Asbestos Premises Liability Claims.

47. "Asbestos Settlement Agreement" means the compromise and settlement agreement of the Derivative Asbestos Claims if ASARCO is able to negotiate such an agreement with the Asbestos Subsidiary Debtors (whose interests are represented by the Asbestos Subsidiary Committee and the FCR).

48. "Asbestos Subsidiary Cases" means the bankruptcy cases of the Asbestos Subsidiary Debtors.

49. "Asbestos Subsidiary Committee" means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee in the Asbestos Subsidiary Cases, pursuant to section 1102 of the Bankruptcy Code.

50. "Asbestos Subsidiary Debtors" means the Subsidiary Debtors that filed bankruptcy cases on April 11, 2005, including, without limitation, Lac d'Amiante du Quebec Ltee; Lake Asbestos of Quebec, Ltd.; LAQ Canada, Ltd.; CAPCO Pipe Company, Inc.; and Cement Asbestos Products Company.

51. "Asbestos TAC" means the Asbestos Trust Advisory Committee created pursuant to the Plan and the Asbestos Trust Agreement, as may be reconstituted from time to time in accordance with the terms thereof.

52. “Asbestos TDP” means the trust distribution procedures, substantially in the form attached as Exhibit 1 to the Asbestos Trust Agreement, as such procedures may be modified from time to time in accordance with the terms thereof, the Asbestos Trust Agreement, or the Plan.

53. “Asbestos Trust” means the tax-qualified settlement trust to be established pursuant to the Asbestos Trust Agreement.

54. “Asbestos Trust Agreement” means the Asbestos Trust Agreement, effective as of the Effective Date, substantially in the form attached as **Exhibit 6** to the Plan, as it may be modified from time to time in accordance with the terms thereof.

55. “Asbestos Trust Assets” means (a) 100 percent of the interests in Reorganized Covington; (b) the Class 4A Pro Rata Share and the Class 4B Pro Rata Share of the Liquidation Trust Interests and the SCC Liquidation Trust Interests; and (c) Cash in an amount ordered by the Bankruptcy Court for payment of the Administrative Expenses of the Asbestos Trust.

56. “Asbestos Trust Beneficiaries” means the holders of (i) Unsecured Asbestos Personal Injury Claims; (ii) Unknown Asbestos Claims; and (iii) the Parent as a residual beneficiary.

57. “Asbestos Trust Bylaws” means the Asbestos Trust Bylaws, effective as of the Effective Date, as such bylaws may be modified from time to time in accordance with the terms of the Asbestos Trust Agreement.

58. “Asbestos Trust Documents” means each of the Asbestos Trust Agreement, the Asbestos Trust Bylaws, the Asbestos TDP, and the other agreements, instruments, and documents governing the establishment, administration, and operation of the Asbestos Trust, as they may be amended or modified from time to time in accordance with the Plan or the terms of such documents.

59. “Asbestos Trust Expenses” means any costs or expenses of, or imposed upon, assumed by, or in respect of, the Asbestos Trust in connection with the liquidation and resolution of Unsecured Personal Injury Claims in accordance with the provisions of the Plan and the Asbestos Trust Documents, not including the payments to holders of such Claims.

60. “Asbestos Trustees” means Reorganized ASARCO and such additional Persons as may be appointed as trustees of the Asbestos Trust under the Asbestos Trust Agreement and any successor thereto chosen in accordance with the Asbestos Trust Agreement.

61. “Assumed Liabilities” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means those Liabilities described in section 3.3(a) through (g) of the Plan Sponsor PSA that the Plan Sponsor shall assume, pay, perform, and discharge when due.

62. “Augusta Defendants” means Augusta Resource (Arizona) Corporation and Augusta Resource Corporation.

63. “Available Plan Funds” means the funds remaining from the Available Plan Sales Proceeds and the Distributable Cash after the Plan Administrator has fully funded the Plan Administration Reserve, the Environmental Custodial Trust Administration Funding, the Environmental Custodial Trust Funding, the Liquidation Trust Expense Fund, and the SCC Litigation Trust Expense Fund.

64. “Available Plan Sales Proceeds” means the Plan Sales Proceeds and any interest earned thereon.

65. “Avoidance Action” means causes of action arising under chapter 5 of the Bankruptcy Code, or under related state or federal statutes and common law, including, without limitation, fraudulent transfer and fraudulent conveyance laws, whether or not litigation has commenced to prosecute such causes of actions.

66. “Back-Up Bid Agreement” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means a definitive purchase and sale agreement executed by the Plan Sponsor and the Guarantors in the form of the Plan Sponsor PSA (including Article II thereof) with only such modifications as are described in section 8.10(f) of the Plan Sponsor PSA.

67. “Back-Up Bid Option” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the Plan Sponsor’s right, under certain circumstances, to consummate the purchase and sale of the Sold Assets and the assumption of the Assumed Liabilities in a transaction on substantially the same terms and conditions as the Plan Sponsor PSA, pursuant to section 8.10(f) thereof.

68. “Ballot” means the form or forms distributed to holders of impaired Claims on which is to be indicated the acceptance or rejection of the Plan.

69. “Balloting Agent” means AlixPartners, LLP.

70. “Bankruptcy Code” means title 11 of the United States Code, 11 U.S.C. § 101, *et seq.*, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made, to the extent applicable to the Reorganization Cases.

71. “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of Texas, Corpus Christi Division.

72. “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure and the local rules of the Bankruptcy Court, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made applicable to the Reorganization Cases.

73. “Bar Date” means the date(s) by which all Entities asserting certain Claims against the Debtors must have filed a Proof of Claim or be forever barred from asserting such Claims against the Debtors or their Estates, as established by any order(s) of the Bankruptcy Court or the Plan.

74. “Bar Date Order” means the order(s) entered by the Bankruptcy Court authorizing the respective Bar Date(s), including the Confirmation Order.

75. “Barclays Capital” means Barclays Capital Inc.

76. “Bid Procedures Order” means the interim order approving the Plan Sponsor procedures, entered by the Bankruptcy Court on March 25, 2008.

77. “Bid Protections Order” means the Final Order Granting Motion of ASARCO LLC for an Order Approving (1) Bid Procedures in Connection with Selecting a Chapter 11 Plan Sponsor and Exit Transaction under a Chapter 11 Plan and (2) Bid Protections to Sterlite (USA), Inc. in Connection Therewith, entered by the Bankruptcy Court on July 1, 2008.

78. “Bondholder” means an Entity that holds one or more of the Bonds or the Indentures, other than any Indenture Trustee Fee Claim.

79. “Bondholders’ Claim” means any Claim arising under one or more of the Bonds.

80. “Bonds” means ASARCO’s unsecured long-term bond debt, consisting of the following:

Bond	Maturity	Face Value
CSFB JP Morgan Sec Debentures at 7.875%	April 2013	\$100.00m
Nueces River Env Bond (IRB) Series 1998 A 5.60%	April 2018	\$22.20m
CSFB Corporate Debentures at 8.50%	May 2025	\$150.00m
Gila County — Installment Bond 5.55%	January 2027	\$71.90m
Lewis & Clark County Env Bond (IRB) 5.60%	January 2027	\$33.16m
Nueces River Env Bond (IRB) 5.60%	January 2027	\$27.74m
Lewis & Clark County Env Bond (IRB) 5.85%	October 2033	\$34.80m

81. “Burns Litigation” means the claims and causes of action of the Debtors in the action pending in the Supreme Court of the State of New York, County of New York, styled *Phillip Nelson Burns, et al., v. Grupo Mexico, S.A. de C. V., et al.*, Index No. 0114728/2004 against various defendants, including Grupo Mexico, but not including the Debtors’ claims and causes of action that have been removed and transferred to the District Court and are now pending as Civil Action Nos. 07-00018 and 07-00203 as part of the SCC Litigation.

82. “Business” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the business of mining, smelting, and refining of copper and other metals as conducted by the Sellers on the date of the Plan Sponsor PSA.

83. “Business Day” means any day other than a Saturday, Sunday, or legal holiday (as such term is defined in Bankruptcy Rule 9006(a)).

84. “CAPCO” means CAPCO Pipe Company, Inc., and Cement Asbestos Products Company.

85. “Cash” means cash, cash equivalents, and other readily marketable securities or instruments, including, without limitation, direct obligations of the United States and certificates of deposit issued by federally insured banks.

86. “CBA” means such collective bargaining agreement as may be negotiated in good faith between the Plan Sponsor and the USW on behalf of itself and the other labor organizations representing the bargaining unit employees of ASARCO.

87. “CBRI” means Copper Basin Railway, Inc., a Delaware corporation.

88. “CDA Trust” means the trust created pursuant to the Residual Environmental Settlement Agreement for the Coeur d’Alene, Idaho site and properties owned by the Debtors in Shoshone County and Kootenai County, Idaho.

89. “CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601, *et seq.*

90. “Certificate” means an instrument evidencing an Allowed Bondholders’ Claim.

91. “Charging Lien” means any lien that an Indenture Trustee is entitled to exercise under the terms of its Indenture against, or any other priority in payment to which such Indenture Trustee is entitled under the terms of its Indenture with respect to, any distribution to be made under such Indenture or on account of any debts of the Debtors owed to holders of obligations under such Indenture.

92. “Chase” means JPMorgan Chase Bank, N.A., the issuer of the Credit Facility described in Section 2.15(b) of the Disclosure Statement.

93. “Claim” shall have the meaning assigned to such term by section 101(5) of the Bankruptcy Code.

94. “Claim Objection Deadline” shall have the meaning assigned to such term in Article 14.2(a) of the Plan.

95. “Claimant” means the holder of a Claim.

96. “Claims Agent” means AlixPartners, LLP.

97. “Class” means a category of Claims or Interests as defined in Article III of the Plan.

98. “Class 4 Pro Rata Share” means, collectively, the Class 4A Pro Rata Share and Class 4B Pro Rata Share.

99. “Class 4A Pro Rata Share” means the ratio of (i) the amount of Asbestos Premises Liability Claims (including Unknown Asbestos Claims that are of a similar nature) against ASARCO, in the amount estimated by the Bankruptcy Court, pursuant to its estimation order, following an evidentiary hearing plus post-petition interest on that amount; provided, however, if the parties reach agreement regarding the aggregate allowed amount of such claims for purposes of the Plan, such amount shall be approved by the Bankruptcy Court in accordance such procedures as the Bankruptcy Court shall require, including the presentation of supporting evidence regarding such settlement, to (ii) the total aggregate amount of Allowed Claims in Classes 3 and 4.

100. “Class 4B Pro Rata Share” means the ratio of (i) the amount of the Unsecured Asbestos Personal Injury Claims (including Unknown Asbestos Claims that are of a similar nature) against ASARCO other than Asbestos Premises Liability Claims, in the amount estimated by the Bankruptcy Court, pursuant to its estimation order, following an evidentiary hearing plus post-petition interest on that amount; provided, however, if the parties reach agreement regarding the aggregate allowed amount of such claims for purposes of the Plan, such amount shall be approved by the Bankruptcy Court in accordance such procedures as the Bankruptcy Court shall require, including the presentation of supporting evidence regarding such settlement, to (ii) the total aggregate amount of Allowed Claims in Classes 3 and 4.

101. “Class A Liquidation Trust Interests” means the Liquidation Trust Interests issued to holders of Class 3 General Unsecured Claims other than Governmental Authorities with environmental claims.

102. “Class A SCC Litigation Trust Beneficiaries” means the holders of Class A SCC Litigation Trust Interests.

103. “Class A SCC Litigation Trust Interests” means the SCC Litigation Trust Interests issued to holders of Class 3 General Unsecured Claims other than Governmental Authorities with environmental claims.

104. “Class B Liquidation Trust Interests” means the Liquidation Trust Interests issued to holders of Class 3 General Unsecured Claims that are Governmental Authorities with environmental Claims.

105. “Class B SCC Litigation Trust Beneficiaries” means the holders of Class B SCC Litigation Trust Interests.

106. “Class B SCC Litigation Trust Interests” means the SCC Litigation Trust Interests issued to holders of Class 3 General Unsecured Claims that are Governmental Authorities with environmental Claims.

107. “Class C Liquidation Trust Interests” means the Liquidation Trust Interests issued to holders of Class 4 Unsecured Asbestos Person Injury Claims.

108. “Class C SCC Litigation Trust Interests” means the SCC Litigation Trust Interests issued to holders of Class 4 Unsecured Asbestos Person Injury Claims.

109. “Class D SCC Litigation Trust Interests” means the SCC Litigation Trust Interests issued to the SCC Purchasers.

110. “Closing” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the closing of the sale and purchase of the Sold Assets and the assumption of the Assumed Liabilities pursuant to the Plan Sponsor PSA.

111. “Closing Date” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the date on which the Closing occurs.

112. “Coal Act” means the Coal Industry Retiree Health Benefit Act of 1992, as amended.

113. “COBRA” means the Consolidated Omnibus Budget Reconciliation Act.

114. “COD Income” means cancellation of indebtedness income.

115. “Committees” means the ASARCO Committee, the Asbestos Subsidiary Committee, and the Asbestos Claimants’ Committee.

116. “Confidentiality Agreement” means the confidentiality agreement dated July 6, 2007, between the Guarantors and ASARCO.

117. “Confirmation,” “Confirmation of the Plan,” or “Confirmation of this Plan” means the approval of the Plan by the Bankruptcy Court at the Confirmation Hearing.

118. “Confirmation Date” means the date on which the Confirmation Order is entered on the docket of the Bankruptcy Court.

119. “Confirmation Hearing” means the hearing(s) that will be held before the Bankruptcy Court, in which the Debtors will seek Confirmation of the Plan.

120. “Confirmation Order” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 and other applicable sections of the Bankruptcy Code.

121. “Confirmation Working Capital” means an amount equal to (x) the Included Receivables (as defined in the Plan Sponsor PSA) plus the Inventory Amount (as defined in the Plan Sponsor PSA) minus (y) the Included Payables (as defined in the Plan Sponsor PSA), in each case, calculated as of the Confirmation Date.

122. “Consummation” means the occurrence of the Effective Date.

123. “Contract” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any written contract, indenture, note, bond, loan, instrument, lease, commitment, or other agreement.

124. “Convenience Claim” means any Allowed Unsecured Claim, excluding Asbestos Personal Injury Claims, otherwise entitled to treatment under Class 3 of the Plan, which is \$1,000 or less when aggregated with the other Unsecured Claims of such holder, or, in the alternative, is reduced by election of such holder on such holder’s Ballot, together with all other Unsecured Claims of such holder, to an aggregate Unsecured Claim of \$1,000.

125. “Corporate Governance Stipulation” means the Stipulation and Order Regarding Corporate Governance, entered by the Bankruptcy Court on December 15, 2005.

126. “Covington” means Covington Land Company, a Delaware corporation.

127. “Covington Residual Assets” means assets of Covington and the Asbestos Subsidiary Debtors including, without limitation, the Property of the Estate of such debtors.

128. “Credit Facility” means the \$5 million senior secured twelve month credit facility issued by Chase, as discussed in Section 2.15(b) of the Disclosure Statement.

129. “Creditor Constituents” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the ASARCO Committee, the Asbestos Subsidiary Committee, the FCR, the DOJ, the United Steel Workers Union, and the States of Washington, Montana, Missouri, Arizona, and Texas.

130. “Cure Amount Claim” means the amount due to the non-Debtor contracting party based upon a Debtor’s defaults under an executory contract or unexpired lease at the time such contract or lease is assumed pursuant to section 365 of the Bankruptcy Code.

131. “Custodial Trust Administrative Accounts” means the trust accounts established pursuant to the various Environmental Custodial Trust Agreements into which Environmental Custodial Trust Administration Funding shall be deposited.

132. “Custodial Trust Environmental Cost Accounts” means the trust accounts established pursuant to the various Environmental Custodial Trust Agreements into which the Environmental Custodial Trust Funding shall be deposited.

133. “Debtor” means one of the Debtors.

134. “Debtors” means ASARCO and any debtor in the Reorganization Cases which is a direct or indirect subsidiary of ASARCO other than the Asbestos Subsidiary Debtors.

135. “Delaware Trustee” means the Entity appointed under the Asbestos Trust Agreement, the Liquidation Trust Agreement, and the SCC Litigation Trust Agreement to fulfill the requirement of section 3807 of the Delaware Statutory Trust Act, 12 DEL. CODE ANN. § 3807.

136. “Deposit” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the funds in the aggregate amount of \$125 million that the Plan Sponsor shall make available to ASARCO pursuant to section 4.2 of the Plan Sponsor PSA.

137. “Derivative Asbestos Claims” means Asbestos Personal Injury Claims against the Asbestos Subsidiary Debtors for which ASARCO is alleged to be liable under any of the various Alter Ego Theories.

138. “Derivative D&O Litigation” means the claims and causes of action of the Debtors asserted derivatively by the ASARCO Committee in Adversary No. 07-02077, pending in the Bankruptcy Court.

139. “Designated Properties” means each parcel of real property generally identified on **Exhibit 10** to the Plan under the heading Designated Properties.

140. “DIP Agent” means The CIT Group/Business Credit, Inc., the Entity that provided the DIP Facility to ASARCO.

141. “DIP Facility” means the debtor-in-possession credit facility provided by the DIP Agent to ASARCO.

142. “Discharge Injunction” means the permanent injunction set forth in Article 11.2 of the Plan.

143. “Disclosure Order” means the order entered by the Bankruptcy Court on _____, _____, approving the Disclosure Statement, a copy of which is attached to the Disclosure Statement as **Exhibit C**.

144. “Disclosure Schedule” shall have the meaning assigned to the term “Seller Disclosure Schedule” in the Plan Sponsor PSA, which for reference purposes only means the disclosure schedule delivered to the Plan Sponsor pursuant to the Plan Sponsor PSA.

145. “Disclosure Statement” means the Disclosure Statement in Support of the Debtors’ Fifth Amended Joint Plan of Reorganization Under Chapter 11 of the United States Bankruptcy Code, including all exhibits attached thereto, as submitted by the Debtors pursuant to section 1125 of the Bankruptcy Code and approved by the Bankruptcy Court, as such Disclosure Statement may be further amended, supplemented, or modified from time to time.

146. “Disclosure Statement Approval Date” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the date on which the Disclosure Statement (as such term is defined in the Plan Sponsor PSA) shall have been approved by the Bankruptcy Court.

147. “Disputed Claim” means a Claim (other than an Asbestos Personal Injury Claim) that is not an Allowed Claim, including a Claim that is, in whole or in part: (a) listed on the Schedules as, or proof of which is filed as, unliquidated, disputed, or contingent; (b) as to which a Proof of Claim designating such Claim as liquidated in amount and not contingent was not

timely and properly filed; (c) as to which a Debtor, Reorganized ASARCO, the Plan Administrator, the Asbestos Trustees, or other party in interest has filed a timely objection or request for estimation in accordance with the Bankruptcy Code and Bankruptcy Rules; or (d) is otherwise disputed by a Debtor, Reorganized ASARCO, the Plan Administrator, the Asbestos Trustees, or other party in interest in accordance with applicable law, which objection, request for estimation, or dispute has not been withdrawn or determined by a Final Order.

148. “Disputed Claims Reserve” means a reserve for any distributions to be set aside by the Plan Administrator pursuant to Article 13.8 of the Plan on account of Disputed Claims.

149. “Disputed Secured Claims Reserve” means the escrow account(s) established by the Plan Administrator pursuant to Article 13.8 of the Plan on account of allegedly Secured Claims that are Disputed Claims.

150. “Distributable Cash” means unrestricted Cash on hand with the Debtors on the Effective Date, plus interest earned thereon, if any.

151. “Distribution Record Date” means the close of business on the Confirmation Date.

152. “District Court” means the United States District Court for the Southern District of Texas.

153. “DOJ” means the United States Department of Justice, Environment & Natural Resources Division.

154. “DTC” means the Depository Trust Company.

155. “East Helena Soils Settlement Agreement” means the Settlement Agreement Regarding Response Costs at the East Helena Superfund Site referenced in the motion for approval thereof filed on September 19, 2008 [Docket No. 9231] and approved by order entered on February 6, 2009 [Docket No. 10392].

156. “Effective Date” means, and shall occur on, the first Business Day upon which all of the conditions to occurrence of the Effective Date contained in Article 9.1 of the Plan have been satisfied, or waived pursuant to Article 9.2 of the Plan, provided however that the Effective Date shall not occur prior to August 1, 2009.

157. “El Paso Paving SEP Claim” means the City of El Paso’s claim related to the paving supplemental environmental project.

158. “El Paso Stipulation” means the Stipulation Relating to Proofs of Claim for El Paso County Metals Survey Site and Dona Ana Metal Site and Modification of Case Management Order referenced in the motion for approval thereof filed on September 12, 2007 [Docket No. 5775], and approved by the Bankruptcy Court by orders entered on October 5, 2007 [Docket No. 6019] and on December 4, 2007 [Docket No. 6434].

159. “ELT/ES” means ELT Houston, LLC and EnergySolutions, LLC.

160. “Employee Benefit Plan” shall have the meaning assigned to the term “Seller Employee Benefit Plan” in the Plan Sponsor PSA, which for reference purposes only means each “employee pension benefit plan” (as defined in section 3(2) of ERISA), “employee welfare benefit plan” (as defined in section 3(1) of ERISA), stock option, stock purchase, stock appreciation right, incentive, deferred compensation plan or arrangement, and other employee fringe benefit plan or arrangement maintained, contributed to, or required to be maintained or contributed to by the Sellers or with respect to which any of the Sellers or their Affiliates have any obligation or liability.

161. “Entity” shall have the meaning assigned to such term by section 101(15) of the Bankruptcy Code.

162. “Environmental 9019 Motion” means the Debtors’ Motion under Bankruptcy Rule 9019 for Order Approving Settlement of Environmental Claims, filed on March 12, 2009 [Docket No. 10534].

163. “Environmental Agencies” means Governmental Units whose responsibilities include enforcement and oversight of Environmental Law.

164. “Environmental Custodial Trust(s)” means the custodial trusts to be established pursuant to the various Environmental Custodial Trust Agreements.

165. “Environmental Custodial Trust Accounts” means the Custodial Trust Environmental Cost Accounts and the Custodial Trust Administrative Accounts.

166. “Environmental Custodial Trust Administration Funding” means the Cash that ASARCO shall allocate and disburse to the various Environmental Custodial Trusts for administration of the Designated Properties, as set forth in **Exhibit F** to the Disclosure Statement.

167. “Environmental Custodial Trust Agreements” means the agreements governing the operation of the Environmental Custodial Trusts, as well as any other ancillary agreements or related documents.

168. “Environmental Custodial Trust Assets” means the Designated Properties and related contracts, fixtures, and personalty to be transferred to the Environmental Custodial Trusts in accordance with the Environmental Custodial Trust Settlement Agreements, the Environmental Custodial Trust Administration Funding, and the Environmental Custodial Trust Funding.

169. “Environmental Custodial Trust Documents” means the Environmental Custodial Trust Agreements and the other agreements, instruments, and documents governing the establishment, administration, and operation of the Environmental Custodial Trusts, as they may be amended or modified from time to time in accordance with the terms of such documents.

170. “Environmental Custodial Trust Funding” means Cash in the total aggregate amount of approximately \$266.5 million that ASARCO shall allocate and disburse to the various Environmental Custodial Trusts for remediation and restoration of, and other environmental

costs related to, the Designated Properties, as further described in the Environmental Custodial Trust Settlement Agreements.

171. “Environmental Custodial Trust Settlement Agreements” means the settlement agreements with EPA or other Environmental Agencies relating to the Designated Properties.

172. “Environmental Custodial Trustees” means the Entities appointed as Environmental Custodial Trustees under the various Environmental Custodial Trust Agreements and any successors thereto chosen in accordance with such Environmental Custodial Trust Agreements.

173. “Environmental Law” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any Law pertaining to health, industrial hygiene, public safety, occupational safety, mining, mine reclamation, natural or cultural resources, fish, wildlife or other protected species, or the environment, including without limitation, CERCLA; RCRA; the Toxic Substances Control Act (15 U.S.C. § 2601, *et seq.*); the Clean Water Act (33 U.S.C. § 1251, *et seq.*); the Oil Pollution Act of 1990 (33 U.S.C. § 2701, *et seq.*); the Clean Air Act (42 U.S.C. § 7401, *et seq.*); the Atomic Energy Act (42 U.S.C. § 2011, *et seq.*); the Hazardous Materials Transportation Act (49 U.S.C. § 5101, *et seq.*); the Emergency Planning and Community Right-To-Know Act (42 U.S.C. 11001, *et seq.*); the Endangered Species Act of 1973 (16 U.S.C. § 1531, *et seq.*); the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701, *et seq.*); the Lead-Based Paint Exposure Reduction Act (15 U.S.C. § 2681, *et seq.*); the Safe Water Drinking Act Amendments of 1996 (42 U.S.C. § 300); the National Historic Preservation Act of 1966; the Mine Safety and Health Act (30 U.S.C. § 801, *et seq.*); the Surface Mining Control and Reclamation Act (30 U.S.C. § 1201, *et seq.*); and state and local counterparts of each of the foregoing.

174. “EPA” means the United States Environmental Protection Agency.

175. “ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

176. “Estate” means a Debtor’s bankruptcy estate created pursuant to section 541 of the Bankruptcy Code on its Petition Date.

177. “Examiner” means Michael Denis Warner in his capacity as examiner of the Debtors.

178. “Exchange Act” means the Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.

179. “Excluded Assets” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the properties, assets, and rights of any Seller described in section 3.2 of the Plan Sponsor PSA that are expressly excluded from the transactions contemplated by the Plan Sponsor PSA and are not included in the Sold Assets.

180. “FCR” means Judge Robert C. Pate, appointed by the Bankruptcy Court pursuant to section 524(g) of the Bankruptcy Code to represent future asbestos-related claimants and any

and all Persons that may assert Unknown Asbestos Claims against any of the Debtors but have not presently done so, and who shall continue to serve after the Effective Date on behalf of holders of Unknown Asbestos Claims in order to exercise the rights, duties, and responsibilities set forth in the Asbestos Trust Documents.

181. “Federal Rules” means the Federal Rules of Civil Procedure, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made applicable to the Reorganization Cases.

182. “FFIC” means Fireman’s Fund Insurance Company.

183. “Final Order” means an order of a court: (a) as to which the time to appeal, petition for writ of certiorari, or otherwise seek appellate review or to move for reargument, rehearing, or reconsideration has expired and as to which no appeal, petition for writ of certiorari, or other appellate review, or proceedings for reargument, rehearing, or reconsideration shall then be pending; (b) as to which any right to appeal, petition for certiorari, or move for reargument, rehearing, or reconsideration shall have been waived in writing by the party with such right; or (c) in the event that an appeal, writ of certiorari, or other appellate review or reargument, rehearing, or reconsideration thereof has been sought, which shall have been affirmed by the highest court to which such order was appealed, from which writ of certiorari or other appellate review or reargument, rehearing, or reconsideration was sought, and as to which the time to take any further appeal, to petition for writ of certiorari, to otherwise seek appellate review, and to move for reargument, rehearing, or reconsideration shall have expired; *provided, however,* that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure or under section 1144 of the Bankruptcy Code, or any analogous rule under the Bankruptcy Rules, may be filed with respect to such order shall not cause such order not to be a Final Order.

184. “Flow Through Bonds” means the surety bonds numbered 403998, 394729, 133771, 142706, and 403855 issued by Seaboard on behalf of ASARCO, as principal, to bond ASARCO’s obligations to various Entities.

185. “Forfeited Distributions” means funds in the Undeliverable and Unclaimed Distribution Reserve that remain unclaimed or otherwise undeliverable to the Claimant entitled thereto.

186. “General Unsecured Claim” means an Unsecured Claim that is not an Unsecured Asbestos Personal Injury Claim, a Convenience Claim, a Late-Filed Claim, or a Subordinated Claim.

187. “Glencore” means Glencore Ltd. and its partners.

188. “Glencore Acquisition Co.” means the newly created acquisition entity that Glencore proposed to create to acquire ASARCO’s operating assets under the revised Non-Binding Indicative Offer Termsheet for ASARCO’s Operating Assets.

189. “Glossary” means this Uniform Glossary of Defined Terms for Plan Documents, as such Glossary may be further amended, supplemented, or modified from time to time.

190. “Governmental Authority” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government, foreign or domestic, including any governmental authority, agency, department, board, commission, or instrumentality of the United States or other country, any state, province, tribal authority, or any political subdivision of any of the foregoing, and any tribunal, court, arbitrator(s), or other private adjudicator whose decisions are binding of competent jurisdiction, and shall include the Bankruptcy Court.

191. “Governmental Environmental Claimants” means the Governmental Authorities that hold (a) environmental Claims relating to the sites listed in Exhibit 12 to the Plan or (b) the Residual Environmental Claims.

192. “Governmental Unit” shall have the meaning assigned to such term by section 101(27) of the Bankruptcy Code.

193. “Grupo Mexico” means Grupo Mexico S.A.B. de C.V., ASARCO’s ultimate parent company.

194. “Guarantors” means the signatories to the Guarantee/Commitment Letter Agreement, as defined in the Plan Sponsor PSA.

195. “Harbinger Master Fund” means Harbinger Capital Partners Master Fund I, Ltd.

196. “Hayden Past Cost Settlement Agreement” means the Settlement Agreement Regarding the ASARCO Hayden Plant Site by and among the EPA and ASARCO, which resolves the United States’ Claims for past response costs incurred at the Hayden smelter and associated facilities on or before May 27, 2008.

197. “Hayden Settlement Agreement” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the Administrative Settlement Agreement and Order on Consent for Removal Action, U.S. EPA Region IX, CERCLA Docket No. 2008-09, and the Administrative Settlement Agreement and Order on Consent for Removal Action, U.S. EPA Region IX, CERCLA Docket No. 2008-13, by and among the EPA, the ADEQ, and ASARCO.

198. “Hazardous Materials” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any substance, material, pollutant, contaminant, waste, or special waste, whether solid, liquid, or gaseous, that is infectious, toxic, hazardous, explosive, corrosive, flammable, or radioactive or which is defined, designated, listed, regulated, or included in any Environmental Law, including asbestos or asbestos-containing material, petroleum or petroleum additive substances, polychlorinated biphenyls, or sewage.

199. “Hourly Plan” means the Retirement Income Plan for Hourly-Rated Employees of ASARCO LLC.

200. “Hourly and Salaried Plans” means the Hourly Plan and the Salaried Plan.

201. “HSR Act” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

202. “Indemnification Escrow” means the escrow account in the amount of \$20 million to address Reorganized ASARCO’s anticipated indemnification obligations, pursuant to Article 11.8(b) of the Plan.

203. “Indenture Trustee Fee Claim” means, individually and collectively, any claim against the Debtors for any compensation, disbursements, fees, expenses, and indemnification pursuant to an Indenture, including any claim under such Indenture for the reasonable fees and expenses of an Indenture Trustee, its counsel, and any other professionals of the Indenture Trustee payable thereunder, any unpaid prepetition fees and costs of the Indenture Trustee (including its counsel and other professionals) payable thereunder, and any claim for unpaid fees and expenses of any predecessor Indenture Trustee payable thereunder.

204. “Indenture Trustees” means Wilmington Trust Company, Deutsche Bank Trust Company Americas, and Wells Fargo Bank, National Association, each in their respective capacity as a trustee under the Indentures.

205. “Indentures” means, collectively, the (a) Indenture, dated as of October 1, 1994, as supplemented by the First Supplemental Indenture, dated as of February 16, 2005, by and between ASARCO LLC, successor to ASARCO Incorporated, as issuer, JPMorgan Chase Bank (formerly known as Chemical Bank), as Indenture Trustee, pursuant to which ASARCO LLC issued its 8.5% Corporate Debentures Due 2025; (b) Indenture dated as of October 1, 1998 between Lewis and Clark County, Montana and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Lewis and Clark County, Montana issued the Lewis and Clark County, Montana Environmental Facilities Revenue Bonds (ASARCO Incorporated Project) Series 1998 due 2033; (c) Indenture dated as of January 1, 1998 between Lewis and Clark County, Montana and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Lewis and Clark County, Montana issued the Lewis and Clark County, Montana Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998 due 2027; (d) Indenture dated as of October 1, 1998 between Nueces River Authority and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Nueces River Authority issued the Nueces River Authority Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998A due 2018; (e) Indenture dated as of January 1, 1998 between Nueces River Authority and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Nueces River Authority issued the Nueces River Authority Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998 due 2027; (f) Indenture dated as of January 1, 1998 between The Industrial Development Authority of the County of Gila, Arizona and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which The Industrial Development Authority of the County of Gila, Arizona issued The Industrial Development Authority of the County of Gila, Arizona Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998 due 2027; and (g) Indenture dated as of February 1, 1993 by and between ASARCO LLC,

successor to ASARCO Incorporated, as Issuer and Bankers Trust Company, as Trustee, pursuant to which ASARCO LLC issued its 7% Debentures due 2013.

206. “Initial Administrative Claims Bar Date” means September 19, 2008, the date established by the Bankruptcy Court for filing Administrative Claims that arise after the Petition Date but prior to the Initial Administrative Claims Bar Date.

207. “Initial Distribution Date” means the date on which ASARCO makes the Initial Distributions under the Plan, which shall be the Effective Date.

208. “Initial Distributions” means the distributions to be made by Reorganized ASARCO, including those to holders of Allowed Claims and to the Trusts, on the Initial Distribution Date.

209. “Injunctions” means the Discharge Injunction, the Permanent Channeling Injunction, and the Asbestos Insurance Company Injunction issued by the Bankruptcy Court in the Reorganization Cases.

210. “Insurance Neutrality Order” means the Bankruptcy Court’s May 29, 2008 Order Extending Scope of Insurance Neutrality Addendum Attached to Order Approving Compromise and Settlement Regarding Resolution of Derivative Asbestos Claims.

211. “Intercompany Claims” means any Claims held by one Debtor, CBRI, or Silver Bell against another Debtor, CBRI, or Silver Bell.

212. “Interest” means the rights of the holders of the equity securities of a Debtor and the rights of any Entity to purchase or demand the issuance of any equity security of such Debtor, including (a) redemption, conversion, exchange, voting, participation, and dividend rights, (b) liquidation preferences, and (c) stock options and warrants.

213. “Interior” means the United States Department of the Interior.

214. “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended.

215. “Inventory” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the inventories of raw materials, in-process and finished products of the Business, including, supplies, materials, and spare parts but excluding, to the extent owned by a Seller, materials provided to a Seller pursuant to Tolling Arrangements or Exchange Arrangements (as such term is defined in Exhibit E to the Plan Sponsor PSA).

216. “Investment Company Act” means the Investment Company Act of 1940, as amended, together with the rules and regulations promulgated thereunder.

217. “IRS” means the Internal Revenue Service.

218. “LAQ” means Lac d’Amiante du Quebec Ltee., Lake Asbestos of Quebec, Ltd., and LAQ Canada, Ltd.

219. “Late-Filed Claims” means those Class 6 Unsecured Claims (a) evidenced by Proofs of Claim filed after the applicable Bar Date but on or prior to the Voting Record Date and (b) that have not been determined as of the Confirmation Date to satisfy the excusable neglect standard. “Late-Filed Claims” does not include (a) Unsecured Asbestos Personal Injury Claims that are filed after the applicable Bar Date, which shall be dealt with exclusively pursuant to the Asbestos TDP and (b) the Allowed Claim for the Terrible Mine Site under the Miscellaneous Federal and State Environmental Settlement Agreement.

220. “Law” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any federal, tribal, state, or local or provincial law (including common law), statute, code, ordinance, rule, regulation, executive order, Order, administrative or judicial decision, judgment, or decree, or other requirement enacted, promulgated, issued, or entered by a Governmental Authority.

221. “Leasehold Property” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means all leases, subleases, licenses, or other agreements relating to the occupancy of real property identified in section 3.1(e)(i) of the Disclosure Schedule, together with all of the Sellers’ right, title, and interest in and to all fixtures and improvements located thereon and all appurtenances, rights, easements, rights-of-way, and other interests incidental thereto, leased, subleased, licensed, or occupied by the Sellers and used or held for use in the Business.

222. “Legal Proceeding” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any action, claim, suit, arbitration, inquiry, proceeding, or investigation by or before any Governmental Authority of any nature, civil, criminal, regulatory, or otherwise, in law or in equity.

223. “Lehman Brothers” means Lehman Brothers Inc.

224. “Liabilities” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any and all debts, losses, liabilities, claims (including claims as defined in the Bankruptcy Code), damages, expenses, fines, costs, royalties, proceedings, deficiencies, or obligations (including those arising out of any Legal Proceeding, such as any settlement or compromise thereof or judgment or award therein), of any nature, whether known or unknown, absolute, accrued, contingent, or otherwise, and whether due or to become due, and whether or not resulting from third party claims, and any reasonable out-of-pocket costs and expenses (including reasonable legal counsels’, accountants’, or other fees and expenses incurred in defending any Legal Proceeding or in investigating any of the same or in asserting any rights under the Plan Sponsor PSA).

225. “LIBOR” means London interbank offered rate of interest.

226. “Lien” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any lien, pledge, mortgage, deed of trust, security interest, attachment, levy, or other encumbrance affecting title.

227. “Liquidation Analysis” means the liquidation analysis attached as **Exhibit E** to the Disclosure Statement.

228. “Liquidation Trust” means that certain liquidation trust to be formed on the Effective Date pursuant to the Liquidation Trust Agreement.

229. “Liquidation Trust Agreement” means the form of trust agreement, effective as of the Effective Date, substantially in the form attached as **Exhibit 4** to the Plan, as it may be modified from time to time in accordance with the terms thereof or Article 6.1 of the Plan.

230. “Liquidation Trust Beneficiaries” means the holders of Liquidation Trust Interests.

231. “Liquidation Trust Board” means the group of five Persons selected in accordance with the provisions of the Liquidation Trust Agreement.

232. “Liquidation Trust Claims” means the Litigation Claims that are transferred to the Liquidation Trust pursuant to the Plan as listed on **Exhibit 14-B** to the Plan and shall include the Sterlite Litigation.

233. “Liquidation Trust Expense Fund” means the Cash in the amount of \$5 million to be transferred to the Liquidation Trustee by the Debtors on the Effective Date, together with all additions thereto in accordance with the Liquidation Trust Agreement, in order to fund the operations of the Liquidation Trust.

234. “Liquidation Trust Interests” means the beneficial interests in the Liquidation Trust to be distributed in accordance with the Plan (and, pending resolution of Disputed Claims, the Disputed Claims Reserve).

235. “Liquidation Trust Proceeds” means all proceeds recovered by the Liquidation Trustee from the assets of the Liquidation Trust, including, without limitation, all proceeds from the prosecution, compromise, and settlement of the Liquidation Trust Claims, all of which shall be assets of the Liquidation Trust and held as a part thereof.

236. “Liquidation Trust Register” means the register maintained by the Liquidation Trustee with the names, addresses, and number of Liquidation Trust Interests of the Liquidation Trust Beneficiaries.

237. “Liquidation Trust Registrar” means the Entity appointed by the Liquidation Trustee for the purpose of recording ownership of the Liquidation Trust Interests.

238. “Liquidation Trust Reserve” means the reserve established and administered by the Plan Administrator to provide additional funding as needed from time to time to the Liquidation Trust Expense Fund.

239. “Liquidation Trust Tax Owners” means the Liquidation Trust Beneficiaries and Reorganized ASARCO (to the extent of its retained interest in the Liquidation Trust for federal income tax purposes).

240. “Liquidation Trustee” means the Person appointed as trustee of the Liquidation Trust under the Liquidation Trust Agreement and any successor thereto chosen in accordance with such agreement.

241. “Litigation Claims” means any of the Debtors’ causes of action, including, without limitation, the Burns Litigation, the Derivative D&O Litigation, the MRI Litigation, the SCC Litigation, the Sterlite Litigation, and any other Avoidance Actions.

242. “LLC Agreement” means the Amended and Restated Limited Liability Company Agreement of ASARCO LLC, approved by the Bankruptcy Court on December 15, 2005, as may be subsequently amended, modified, or supplemented.

243. “Madera Property” means the real property owned by ASARCO in Madera Canyon, Santa Cruz County, Arizona, which shall vest in Reorganized Covington pursuant to the Plan.

244. “Manipulative Breach” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means an intentional and willful material breach by ASARCO of its obligations under sections 8.2(d) (but only as it relates to Sold Assets other than Inventory or Included Receivables (as such term is defined in Exhibit E to the Plan Sponsor PSA)), 8.7(a), (b), and (d), or 8.10(b) and (d) of the Plan Sponsor PSA that gives rise to a termination right pursuant to section 13.1(j) thereof and such act or omission giving rise to such breach was performed with the intent to materially breach the Plan Sponsor PSA and to prevent the Closing thereunder, as determined by the Bankruptcy Court, after notice and opportunity to be heard, which may be on an expedited basis.

245. “Master Ballot” means the Ballot prepared for submission by an attorney on behalf of Unsecured Asbestos Personal Injury Claimants, or by a Nominee on behalf of Bondholders.

246. “MDEQ” means the State of Montana *ex rel.* the Montana Department of Environmental Quality.

247. “Miscellaneous Federal and State Environmental Claims” means those Claims filed by a federal or state government in the Reorganization Cases and addressed by the Miscellaneous Federal and State Environmental Settlement Agreement.

248. “Miscellaneous Federal and State Environmental Settlement Agreement” means the settlement agreement between ASARCO and holders of Miscellaneous Federal and State Environmental Claims.

249. “Miscellaneous Plan Administration Accounts” means the Disputed Claims Reserve, the Unpaid Cure Claims Reserve, the Disputed Secured Claims Reserve, the Prepetition ASARCO Environmental Trust Escrow, the Indemnification Escrow, the Undeliverable and Unclaimed Distribution Reserve, the Vested Causes of Action Escrow, the Liquidation Trust Reserve, and the SCC Litigation Trust Reserve.

250. “Mission Mine Leases” means the two mining leases and 21 business leases between ASARCO’s predecessor in interest and the Secretary of the Interior, relating to the Mission Mine.

251. “Mission Mine Settlement Agreement” means the settlement agreement among ASARCO, the Nation, the San Xavier District, the San Xavier Allottees Association, and the United States, as amended, attached to the Plan as **Exhibit 15**.

252. “Mission Mine Unexpired Agreements” means the agreements that ASARCO assumed in the Mission Mine Settlement Agreement and which are to be assigned to the Plan Sponsor pursuant to the Plan.

253. “Missouri Guaranty Corporation” means the Missouri Private Sector Individual Self- Insurers Guaranty Corporation.

254. “Mitsui” means Mitsui & Co. (U.S.A.), Inc., a New York corporation.

255. “Montana DLI” means the Montana Department of Labor and Industry’s Division of Employee Relations.

256. “Montana Guaranty Fund” means the Montana Self-Insurers Guaranty Fund.

257. “MRI” means Montana Resources, Inc.

258. “MRI Litigation” means the claims and causes of action of the Debtors asserted in Adversary No. 07-02024, pending in the Bankruptcy Court.

259. “MR Partnership” means Montana Resources general partnership, a Montana-based, mining-operations partnership in which ASARCO and MRI were partners.

260. “Nation” means the Tohono O’ odham Nation.

261. “Nominee” means any broker, dealer, commercial bank, trust company, savings and loan, financial institution, or other party in whose names the Bonds are registered or held of record on behalf of the holder of the beneficial interest therein.

262. “Non-Debtor Sellers” means ARSB, CBRI, and Santa Cruz.

263. “Non-Environmental Unsecured Claimants” means all holders of Claims in Class 3 other than Governmental Environmental Claimants.

264. “Non-Target Properties” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means all real property that is not (a) a Real Property or (b) a Silver Bell Property.

265. “Order” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any final and non-appealable order, injunction, judgment, stipulation, decree, ruling, writ, assessment, or arbitration award issued by a

Governmental Authority or any legally binding and enforceable conciliation or settlement agreement with any Governmental Authority.

266. “Ordinary Course of Business” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the ordinary conduct of business of the Sellers, taken as a whole, relating to the Business, either (a) consistent with past practice during the pendency of and, as applicable, taking into account the Bankruptcy Cases (as such term is defined in the Plan Sponsor PSA), or (b) consistent with reasonably prudent management of the Business (as determined by the board of directors in its business judgment) in response to economic and industry conditions.

267. “Original Plan Sponsor PSA” means the Purchase and Sale Agreement dated as of May 30, 2008, among ASARCO, ARSB, CBRI, Santa Cruz, the Plan Sponsor, and the Guarantors.

268. “Other Subsidiary Debtors” means the Subsidiary Debtors other than the Asbestos Subsidiary Debtors.

269. “Parent” means ASARCO Incorporated, a Delaware corporation.

270. “PBGC” means the Pension Benefit Guaranty Corporation.

271. “Pension Plan” means each Employee Benefit Plan that is an “employee pension benefit plan” within the meaning of section 3(2) of ERISA and is a “defined benefit plan” as defined in section 3(35) of ERISA.

272. “Permitted Liens” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means (a) all Liens set forth in section 1.1A of the Disclosure Schedule; (b) statutory Liens for current taxes, assessments, or other governmental charges not yet delinquent or the amount or validity of which is being contested in good faith by appropriate proceedings, to the extent that a reserve has been established therefore or such amount has been deposited with the appropriate Governmental Authority or other adjudicating Person (as such term is defined in the Plan Sponsor PSA); (c) mechanic’s, materialman’s, warehouseman’s, carrier’s, and similar liens for labor, materials, or supplies, as would not reasonably be expected to have, individually or in the aggregate, a Seller Material Adverse Effect; (d) purchase money security interests arising in the Ordinary Course of Business; (e) any Lien arising out of a Tolling Arrangement or Exchange Arrangement (as such term is defined in Exhibit E to the Plan Sponsor PSA), to the extent not arising out of a breach of such Tolling Arrangement or Exchange Arrangement; (f) rights of landlords in respect of any Leasehold Property where the applicable lease is not in default; (g) any Lien that, pursuant to section 363(f) of the Bankruptcy Code, will be released upon entry of the Confirmation Order; and (h) such other Liens as would not reasonably be expected to have, individually or in the aggregate, a Seller Material Adverse Effect.

273. “Person” means any person, individual, partnership, corporation, limited liability company, joint venture company, association, or other entity or being of whatever kind, whether or not operating or existing for profit, including, without limitation, any “person” as such term is defined in section 101(41) of the Bankruptcy Code, but excluding any Governmental Unit. [Note

that this definition diverges from the definition set forth in the Plan Sponsor PSA in that the Glossary, similar to the Bankruptcy Code, excludes Governmental Units.]

274. “Petition Date” means, as to each Debtor, the date on which the Debtor’s bankruptcy case was commenced by the filing of a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

275. “Plan” means the Chapter 11 Plan Filed by Harbinger Capital Partners Master Fund I, Ltd. and all exhibits attached thereto or referenced therein, as the same may be amended, modified, or supplemented.

276. “Plan Administration Account” means the bank account(s) that the Plan Administrator shall establish, other than any general accounts established by the Plan Administrator and the Miscellaneous Plan Administration Accounts.

277. “Plan Administration Agreement” means the form of agreement with the Plan Administrator, effective as of the Effective Date, substantially in the form attached as **Exhibit 3** to the Plan, as it may be modified from time to time in accordance with the terms thereof.

278. “Plan Administration Committee” means the three-member committee appointed pursuant to the Plan Administration Agreement to consult with and advise the Plan Administrator.

279. “Plan Administration Reserve” means the funds placed in the Plan Administration Account (and any subaccounts), the Miscellaneous Plan Administration Accounts, and any general accounts established by the Plan Administrator.

280. “Plan Administrator” means the Entity that shall (a) make distributions under the Plan to Claimants (other than the Unsecured Asbestos Personal Injury Claimants) after the Initial Distribution Date; (b) prosecute, settle, or otherwise resolve (1) any objections to such Claimants’ Claims and (2) the Vested Causes of Action; (c) serve as Reorganized ASARCO’s sole officer and director; (d) operate the business of Reorganized ASARCO; and (e) perform the other duties assigned to such Entity by the Plan, the Plan Administration Agreement, or the Confirmation Order.

281. “Plan Consideration” means (a) the Available Plan Funds remaining after Allowed Administrative Claims, Priority Tax Claims, and Claims in Classes 1, 2, and 5 have been paid pursuant to the Plan; (b) the Liquidation Trust Interests; and (c) the SCC Litigation Trust Interests.

282. “Plan Documents” means the Plan, the Disclosure Statement, and all documents, attachments, and exhibits attached to the Plan or the Disclosure Statement that aid in effectuating the Plan, including, without limitation, the Asbestos Trust Documents, as the same may be amended, modified, or supplemented, in accordance with their terms.

283. “Plan Sales Proceeds” means the \$500 million (or more) to be paid by the Plan Sponsor in connection with its purchase of the Sold Assets.

284. “Plan Sponsor” means HarbingerMineCo, LLC , or any other sponsor of a plan of reorganization substantially similar hereto providing for the sale of substantially all of ASARCO’s assets to an alternative plan sponsor who (i) has made a bid with a cash purchase price in excess of \$500,000,000.00, (ii) has deposited the full amount of the purchase price into escrow as assurance of performance, and (iii) has negotiated a collective bargaining agreement that is acceptable to the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial, and Service Workers International Union.

285. “Plan Sponsor PSA” means the Purchase and Sale Agreement between the Debtors and Harbinger MineCo, LLC, and the amendments thereto, attached to the Plan as **Exhibit 9**.

286. “Plan Sponsor Subordinated Indemnity Claims” means claims of the Plan Sponsor against the Liquidation Trust and the SCC Litigation Trust that are subordinate in right of payment to all Allowed Claims in Class 3, Class 4, Class 6 and Class 7 and, for avoidance of doubt, shall not be entitled to any distribution from either of the Liquidation Trust or the SCC Litigation Trust until all Allowed Claims in Class 3, Class 4, Class 6 and Class 7 have received payment in full, including postpetition interest.

287. “Prepetition ASARCO Environmental Trust” means the trust created pursuant to the Consent Decree entered in *United States v. ASARCO Inc., et al.*, Civil Action No. 022079, filed in the United States District Court for the District of Arizona.

288. “Prepetition ASARCO Environmental Trust Escrow” means the escrow account established pursuant to Article 10.8(c) of the Plan.

289. “Previously Settled Environmental Claims” means those Claims filed by a federal or state government, an Indian tribe, or a PRP in the Reorganization Cases that are listed on a site-by-site basis in **Exhibit 11-A** to the Plan.

290. “Previously Settled Environmental Sites” means the sites relating to the Previously Settled Environmental Claims.

291. “Priority Claim” means any Claim (other than an Administrative Claim or a Priority Tax Claim) to the extent such Claim is entitled to a priority in payment under section 507(a) of the Bankruptcy Code.

292. “Priority Tax Claim” means any Claim to the extent that such Claim is entitled to a priority in payment under section 507(a)(8) of the Bankruptcy Code.

293. “Privileges” means any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether electronic, written, or oral).

294. “Professional Persons” means Persons retained or to be compensated under sections 327, 328, 330, 503(b), or 1102 of the Bankruptcy Code.

295. “Proof of Claim” means any proof of claim filed with the Bankruptcy Court or the Claims Agent with respect to a Debtor pursuant to section 501 of the Bankruptcy Code and Bankruptcy Rules 3001 or 3002.

296. “Pro Rata” means the ratio of the amount of a particular Claim to the aggregate amount of Claims in that Claim’s Class.

297. “Property of the Estate” means all property in which any of the Debtors holds a legal or equitable interest, including all property described in section 541 of the Bankruptcy Code.

298. “Proponent” means the Harbinger Master Fund.

299. “Protected Officers and Directors” means Edward R. Caine, H. Malcolm Lovett, Jr., Carlos Ruiz Sacristan, Joseph F. Lapinsky, Donald B. Mills, Douglas E. McAllister, John B. George, Gary A. Miller, Manuel E. Ramos Rada, Thomas L. Aldrich, John D. Low, Jr., Oscar Gonzalez Barron, Russell A. Smith, William Perrell, Joseph Hitter, and any officers and directors appointed to replace one or more of them (or such replacement officer or director) prior to the Effective Date; *provided, however*, that the term “Protected Officers and Directors” does not include the named defendants in the Derivative D&O Litigation, the Burns Litigation, or the SCC Litigation.

300. “PRP” means a non-governmental Entity that has asserted a Claim against a Debtor for one or more environmental clean-up sites, including any non-governmental Entity that is co-liable with one or more of the Debtors for such a claim.

301. “Purchase Price” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means an amount equal to \$500 million.

302. “Purchased Real Property” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the real property identified in section 3.1(c) of the Disclosure Schedule, including all mines, dumps, impoundments, leach pads, tailings, buildings, plants, warehouses, railroad tracks, rights of way, easements, facilities, and other improvements and fixtures thereon and appurtenances thereto and all mining rights, mineral rights, mineral claims, riparian rights, water rights, water claims, water allocations, and water delivery contracts associated therewith.

303. “Purchaser Breach” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means a material breach by the Plan Sponsor or the Guarantors of any of their respective representations, warranties, or covenants or other agreements under the Plan Sponsor PSA.

304. “Qualified Bank” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means ABN AMR() Bank N.V., Chicago or any commercial bank with a rating of at least A+ (S&P) and Aa2 (Moody’s) (except that if a bank is only rated by either S&P or Moody’s and not both, such bank must have the minimum rating by either S&P or Moody’s, as applicable) that is organized or domiciled in the United States of America and that is reasonably satisfactory to the Sellers.

305. “RCRA” means the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, *et seq.*

306. “Real Property” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means, collectively, the Leasehold Property and the Purchased Real Property.

307. “Reference Order” means the District Court’s General Order 2005-6, whereby, with certain exceptions, bankruptcy cases and proceedings arising under the Bankruptcy Code or arising in or related to a bankruptcy case are automatically referred to the bankruptcy judges of the Southern District of Texas.

308. “Reinstated” or “Reinstatement” means a Claim or an Interest unimpaired within the meaning of section 1124 of the Bankruptcy Code.

309. “Release” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means disposing, discharging, injecting, spilling, leaking, leaching, dumping, emitting, escaping, emptying, seeping, placing, and the like into or upon any land or water or air or otherwise entering into the environment.

310. “Remedial Action” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means all action to (a) investigate, clean up, remove, treat, or handle in any other way Hazardous Materials in the environment; (b) restore or reclaim the environment or natural resources; (c) prevent the Release of Hazardous Materials so that they do not migrate, endanger, or threaten to endanger public health or the environment; or (d) perform remedial investigations, feasibility studies, corrective actions, closures, and post-remedial or post-closure studies, investigations, operations, maintenance, and monitoring on, about, or in any Real Property.

311. “Reorganization Cases” means the proceedings before the Bankruptcy Court leading to the Confirmation of the Plan under chapter 11 of the Bankruptcy Code.

312. “Reorganized ASARCO” means ASARCO, on or after the Effective Date, which shall be known as ASARCO Administration Company, LLC.

313. “Reorganized Covington” means Covington, on or after the Effective Date, which shall be known as The Covington Company, LLC.

314. “Reorganized Debtors” means Reorganized ASARCO and Reorganized Covington.

315. “Representatives” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any director, officer, employee, investment banker, financial advisor, attorney, accountant, or other advisor, agent, or representative.

316. “Residual Environmental Claims” means those Claims of the United States and the States of Washington and Nebraska asserting civil liabilities addressed by the Residual Environmental Settlement Agreement.

317. “Residual Environmental Settlement Agreement” means the settlement agreement between ASARCO and holders of Residual Environmental Claims.

318. “Residual Environmental Settlement Sites” means the state and federal sites relating to the Residual Environmental Claims.

319. “Retained Books and Records” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means (a) any Books and Records (as such term is defined in the Plan Sponsor PSA) to the extent relating to any Excluded Assets or Retained Liabilities; (b) any Books and Records to the extent related or pertaining to asbestos or asbestos-containing materials or products or to asbestos personal injury claims or demands against the Sellers, including claims which have been litigated, settled, or otherwise dealt with by the Sellers or any one of the Sellers; and (c) bids, letters of intent, expressions of interest, or other proposals received in connection with the transactions contemplated by the Original Plan Sponsor PSA, the Plan Sponsor PSA, or any of the Ancillary Agreements or otherwise and information and analyses relating to such communications.

320. “Retained Liabilities” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means any Liabilities of the Sellers, other than those that are expressly assumed by the Plan Sponsor under the Plan Sponsor PSA as Assumed Liabilities, including, without limitation, those Liabilities of the Sellers set forth in section 3.4(a) through (h) of the Plan Sponsor PSA.

321. “Rosemont Ranch Defendants” means Rosemont Ranch, LLC; TWW Investments, LLC; DAS Holdings, LLC; Habibi, LLC; West Santa Rita Land, LLC; and Lazy Y I Ranch, LLC.

322. “Salaried Plan” means the Retirement Benefit Plan for Salaried Employees of ASARCO LLC.

323. “Santa Cruz” means ASARCO Santa Cruz, Inc., a Delaware corporation.

324. “SCC” means Southern Copper Corporation (f/k/a Southern Peru Copper Company).

325. “SCC Final Judgment” means the final judgment entered in the SCC Litigation on April 15, 2009.

326. “SCC Litigation” means the claims and causes of action of the Debtors asserted in Civil Action Nos. 07-00018 and 07-00203, both pending in the District Court.

327. “SCC Litigation Proceeds” means the proceeds from the prosecution, compromise, and settlement of the SCC Litigation Trust Claims, which shall be an asset of the SCC Litigation Trust and held as part thereof.

328. “SCC Litigation Purchase Price” means the dollar value (as determined by ASARCO) of the consideration paid by an SCC Purchaser for Class C SCC Litigation Trust Interests.

329. “SCC Litigation Trust” means that certain litigation trust to be formed on the Effective Date pursuant to the SCC Litigation Trust Agreement.

330. “SCC Litigation Trust Agreement” means the form of trust agreement, effective as of the Effective Date, substantially in the form attached as **Exhibit 5** to the Plan, as it may be modified from time to time in accordance with the terms thereof or Article 6.2 of the Plan.

331. “SCC Litigation Trust Beneficiaries” means the holders of SCC Litigation Trust Interests.

332. “SCC Litigation Trust Board” means the group of five Persons selected in accordance with the provisions of the SCC Litigation Trust Agreement.

333. “SCC Litigation Trust Claims” means the Litigation Claims that are transferred to the SCC Litigation Trust pursuant to the Plan as listed on **Exhibit 14-C** to the Plan.

334. “SCC Litigation Trust Expense Fund” means the Cash in the amount of \$5 million to be transferred to the SCC Litigation Trustee by the Debtors on the Effective Date, together with all additions thereto in accordance with the SCC Litigation Trust Agreement, in order to fund the operations of the SCC Litigation Trust.

335. “SCC Litigation Trust Interests” means the beneficial interests in the SCC Litigation Trust to be distributed in accordance with the Plan (and, pending resolution of Disputed Claims, the Disputed Claims Reserve).

336. “SCC Litigation Trust Register” means the register maintained by the SCC Litigation Trustee with the names, addresses, and number of SCC Litigation Trust Interests of the SCC Litigation Trust Beneficiaries.

337. “SCC Litigation Trust Registrar” means the Entity appointed by the SCC Litigation Trustee for the purpose of recording ownership of the SCC Litigation Trust Interests.

338. “SCC Litigation Trust Tax Owners” means the SCC Litigation Trust Beneficiaries and Reorganized ASARCO (to the extent of its retained interest in the SCC Litigation Trust for federal income tax purposes).

339. “SCC Litigation Trust Reserve” means the reserve established and administered by the Plan Administrator to provide additional funding as needed from time to time to the SCC Litigation Trust Expense Fund.

340. “SCC Litigation Trustee” means the Person appointed as trustee of the SCC Litigation Trust under the SCC Litigation Trust Agreement and any successor thereto chosen in accordance with such agreement.

341. “SCC Purchaser Percentage” means the aggregate percentage of SCC Litigation Trust Interests sold to the SCC Purchasers at the auction.

342. “SCC Purchasers” means the purchasers of SCC Litigation Trust Interests pursuant to the auction of such interests which may be held by the Debtors in the sole discretion of the Plan Sponsor.

343. “SCC Stock” means all of the stock in any form (including any stock splits or other reformulations) that is traceable to the 54.2 percent of SCC shares owned by ASARCO or SPHC on March 30, 2003.

344. “SCF” means the Arizona State Compensation Fund.

345. “Schedules” means the schedules, statements, and lists filed by the Debtors with the Bankruptcy Court pursuant to Bankruptcy Rule 1007, as may be amended or supplemented from time to time.

346. “Seaboard” means Seaboard Surety Company.

347. “SEC” means the Securities and Exchange Commission.

348. “Secured Asbestos Personal Injury Claim” means an Asbestos Personal Injury Claim that is secured by a valid, perfected, and enforceable Lien against proceeds of an Asbestos Insurance Policy.

349. “Secured Claim” means any Claim that is (a) secured in whole or part, as of the Petition Date, by a Lien against property of a Debtor that is valid, perfected, and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable nonbankruptcy law or (b) subject to setoff under section 553 of the Bankruptcy Code; *provided, however*, with respect to both (a) and (b) above, a Claim is a Secured Claim only to the extent of the value, net of any Lien senior to the applicable Lien, of the Estate’s interest in the assets or property securing any such Claim or the amount subject to setoff, as the case may be.

350. “Secured Intercompany DIP Credit Facility” means the secured debtor-in-possession term loan credit facility of up to \$10 million from ASARCO to the Asbestos Subsidiary Debtors.

351. “Seller Material Adverse Effect” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means (a) a material adverse effect on the financial condition of the Business (to the extent related to the Sold Assets and Assumed Liabilities) or the condition of the Sold Assets, taken as a whole, or (b) any change, circumstance, or event that, individually or in the aggregate, would materially hinder or materially and adversely affect the Sellers’ ability to consummate the transactions contemplated by the Plan Sponsor PSA, excluding, in each case, any such effect, change, circumstance, or event attributable to or resulting from (i) the announcement, pendency, or consummation of the Plan Sponsor PSA, the sale of the Sold Assets, or any other action by the Sellers or their Affiliates required or expressly contemplated by the Plan Sponsor PSA, (ii) the conversion or dismissal of any Bankruptcy Case (as such term is defined in the Plan Sponsor PSA) or the filing

of additional petitions under chapter 11 of the Bankruptcy Code by or involving any of the Sellers' Affiliates, (iii) any outbreak of hostility, terrorist activities, or war, (iv) any changes in general economic (including changes in the securities markets, commodity prices, or foreign exchange rates), political, or regulatory conditions generally, (v) any changes in economic, political, or regulatory conditions in the mining or smelting industries or other industries in which the Sellers operate, (vi) any change in Applicable Law or accounting regulations or interpretations thereof by any court, accounting regulatory authority, or other Governmental Authority, (vii) any action or omission of any Seller taken in accordance with the terms of the Plan Sponsor PSA or with the prior written consent of the Plan Sponsor, (viii) any failure by any Seller to meet any projections, budgets, plans, or forecasts (but not excluding the underlying cause of such failure to meet projections, budgets, plans, or forecasts), or (ix) any expenses incurred by any Seller in the Ordinary Course of Business or in connection with the Plan Sponsor PSA, the Ancillary Agreements, or the transactions contemplated thereby; *provided, however*, that in the case of clauses (iv), (v) and (vi), such changes do not affect the Sellers in a materially disproportionate manner compared to other businesses conducting a business substantially similar to the Business of the Sellers. Any determination as to whether any condition or other matter has a Seller Material Adverse Effect shall be made only after taking into account all proceeds or amounts that are expected to be received by the Plan Sponsor with respect to such condition or matter from insurance policies.

352. "Sellers" means ASARCO and the Non-Debtor Sellers, each of which is, individually, a "Seller."

353. "Settling Asbestos Insurance Company" means any Asbestos Insurance Company that has entered into an Asbestos Insurance Settlement Agreement approved by the Bankruptcy Court as of the Effective Date. The Asbestos Insurance Settlement Agreements are listed on **Exhibit 7** to the Plan, as amended or supplemented.

354. "Silver Bell" means Silver Bell Mining, L.L.C., a Delaware limited liability company.

355. "Silver Bell Interests" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the limited liability company interests of Silver Bell owned by any Seller.

356. "Silver Bell LLC Agreement" means that certain membership interest agreement, dated February 5, 1996, among Ginrei, Inc., MSB Copper Corp., and ARSB, as amended.

357. "Silver Bell Property" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means all real property owned or leased by Silver Bell.

358. "Sold Assets" means the "Purchased Assets" as defined in the Plan Sponsor PSA and identified in section 3.1 thereof, and are substantially all of the tangible and intangible operating assets of ASARCO and the Non-Debtor Sellers.

359. "SPHC" means Southern Peru Holdings, LLC.

360. “SPT” means Seaboard and St. Paul Fire.

361. “SPT Indemnity Agreement” means the General Agreement of Indemnity dated October 19, 1993, which was executed by ASARCO and delivered to Seaboard and St. Paul Fire.

362. “SPT Settlement Agreement” means the settlement agreement between ASARCO, Seaboard Surety Company, and St. Paul Travelers and Marine Insurance Company.

363. “St. Paul Fire” means St. Paul Fire and Marine Insurance Company.

364. “Sterlite 2009 PSA” means that certain Settlement and Purchase and Sale Agreement, dated as of March 6, 2009, by and among the Debtors and Sterlite, as purchaser, and Sterlite Industries (India) Ltd., as guarantor, as filed with the Bankruptcy Court on May 11, 2009 as Exhibit M to the Disclosure Statement.

365. “Sterlite Litigation” shall mean all causes of action against Sterlite and its affiliates related to Sterlite’s breach of the Original Plan Sponsor PSA.

366. “Subordinated Claims” means those Class 7 Unsecured Claims that are subordinated to all other Unsecured Claims, pursuant to an order or by agreement of the Claimant.

367. “Subsequent Administrative Claims” means any Administrative Claims that arise after the Initial Administrative Claims Bar Date.

368. “Subsequent Administrative Claims Bar Date” means the date established in Article 15.13 of the Plan for the filing of Subsequent Administrative Claims.

369. “Subsidiary” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means, with respect to any Person (as such term is defined in the Plan Sponsor PSA), any corporation, limited liability company, joint venture, or partnership of which such Person (a) beneficially owns, either directly or indirectly, more than 50 percent of (i) the total combined voting power of all classes of voting securities of such entity, (ii) the total combined equity interests, or (iii) the capital or profit interests, in the case of a partnership; or (b) otherwise has the power to vote or to direct the voting of sufficient securities to elect a majority of the board of directors or similar governing body.

370. “Subsidiary Debtors” means ASARCO’s subsidiaries with pending chapter 11 bankruptcy cases, including, without limitation, Lac d’Amiante du Quebec Ltee; Lake Asbestos of Quebec, Ltd.; LAQ Canada, Ltd.; CAPCO Pipe Company, Inc.; Cement Asbestos Products Company; Encycle, Inc.; ASARCO Consulting, Inc.; ASARCO Master, Inc.; ASARCO Oil and Gas Company, Inc.; Bridgeview Management Company, Inc.; ALC, Inc.; American Smelting and Refining Company; AR Mexican Explorations, Inc.; Government Gulch Mining Company, Limited; Covington Land Company; Southern Peru Holdings, LLC; AR Sacaton, LLC; ASARCO Exploration Company, Inc.; Green Hill Cleveland Mining Company; Alta Mining and Development Company; Blackhawk Mining and Development Company, Limited; Peru Mining Exploration and Development Company; Tulipan Company, Inc.; and Wyoming Mining and Milling Company.

371. “Superfund” means the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507.

372. “Tax Refund” means the tax refund that ASARCO contends (in Adversary Proceeding No. 07-02011 pending before the Bankruptcy Court) is owed to its Estate as a result of the overpayment of federal income taxes.

373. “TCEQ” means the Texas Commission on Environmental Quality.

374. “Third Amended Disclosure Statement” means the Disclosure Statement in Support of the Debtors’ Third Amended Joint Plan of Reorganization under Chapter 11 of the United States Bankruptcy Code, filed on March 16, 2009.

375. “Tolling Arrangements” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means those commercial arrangements between ASARCO and certain third parties pursuant to which ASARCO agrees to receive raw materials from such third parties for toll conversion and return certain finished products to such third parties.

376. “Toxic Tort Claims” means the toxic tort, personal injury, environmental property damage, and related breach-of-settlement Claims asserted against the Debtors, including, without limitation, those resulting from the Debtors’ operations of a site in Tar Creek, Oklahoma, the Ray Mine and Hayden Smelter in Ray Complex, Arizona, and the El Paso smelter located in El Paso, Texas. The Toxic Tort Claims do not include any Claims by Governmental Units or Asbestos Personal Injury Claims.

377. “Trade Creditor Preference Claim” means the Litigation Claims listed in **Exhibit 14-E** of the Plan.

378. “Transition Services Agreement” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means the Transition Services Agreement, dated as of the Closing Date, between the Plan Sponsor and ASARCO, to be negotiated in accordance with section 8.14 of the Plan Sponsor PSA, which will include, among other things, the services and terms described in Exhibit K to the Plan Sponsor PSA.

379. “Trust Documents” means the Asbestos Trust Documents, the Liquidation Trust Agreement, the SCC Trust Agreement, and the Environmental Custodial Trust Documents.

380. “Trust Indenture Act” means the Trust Indenture Act of 1939, as amended, together with all the rules and regulations promulgated thereunder.

381. “Trust Interest Priorities” means the priority of payment of all Classes of Claims that are receiving interests in the Liquidation Trust and the SCC Litigation Trust. The priority of payments on account of such interests shall be as follows:

- (a) First, on account of the Allowed Amounts of Claims in Class 3 and Class 4, on a Pro Rata basis, until such claims are paid in full;

(b) Second, on account of Allowed Amounts of any Class 6 Claims, on a Pro Rata basis, until such claims are paid in full;

(c) Third, on account of post-petition interest on any Allowed Amounts of any Class 3 Claims, Class 4 Claims or Class 6 Claims calculated at the higher of the non-default contract rate and the federal judgment rate in accordance with section 1961 of title 28 of the United States Code or at such rate as the Bankruptcy Court determines as to any particular Claim or any group of Claims, on a Pro Rata basis, until such claims are paid in full;

(d) Fourth, on account the Plan Sponsor Subordinated Indemnity Claims until the earlier of (i) the exhaustion of any assets remaining in the Liquidation Trust and the SCC Litigation Trust and (ii) fifty (50) years after the Effective Date;

(e) Fifth, on account of Class 7 Claims, on a Pro Rata basis, until such claims are paid in full;

(f) Sixth, on account of post-petition interest on any Allowed Amounts of any Class 7 Claims calculated at the higher of the non-default contract rate and the federal judgment rate in accordance with section 1961 of title 28 of the United States Code or at such rate as the Bankruptcy Court determines as to any particular Claim or any group of Claims, on a Pro Rata basis, until such claims are paid in full; and.

(g) Seventh, on account of Class 8 Interests after all actual or potential claims of other classes (including Unknown Asbestos Claims and the Plan Sponsor Subordinated Indemnity Claims) have been satisfied in full.

382. “Trustees” means the Persons appointed pursuant to the Plan for the purpose of acting as initial trustees of the Asbestos Trust, the Liquidation Trust, the SCC Litigation Trust, and the Environmental Custodial Trusts.

383. “Trusts” means the Asbestos Trust, the Liquidation Trust, the SCC Litigation Trust, and the Environmental Custodial Trusts.

384. “Undeliverable and Unclaimed Distribution Reserve” means the escrow account established pursuant to Article 13.4(b) of the Plan.

385. “Unions” means the labor organizations representing the current employees of ASARCO.

386. “Unknown Asbestos Claimant” means a holder of an Unknown Asbestos Claim.

387. “Unknown Asbestos Claims” means a demand for payment, present or future, that (a) was not a Claim during the proceedings before the Bankruptcy Court leading to Confirmation of the Plan in the Reorganization Cases; (b) arises out of the same or similar conduct or events that gave rise to (i) an Asbestos Personal Injury Claim or (ii) an Asbestos Premises Liability Claim; and (c) pursuant to the Plan is to be paid by the Asbestos Trust from either the Asbestos Personal Injury Claims Fund or the Asbestos Premises Liability Claims Fund. Each Unknown

Asbestos Claim shall be classified by the Asbestos Trustees as either an Asbestos Personal Injury Claim or an Asbestos Premises Liability Claim.

388. “Unpaid Cure Claims Amount” shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only means, with respect to any Assumption-Pending Pre-Petition Contract (as such term is defined in section 3.5(a) of the Plan Sponsor PSA), the aggregate amount of any Cure Claims (as such term is defined in the Plan Sponsor PSA) that remains unpaid as of the Closing Date for any reason, provided that if such amount remains disputed as of such date, the “Unpaid Cure Claims Amount” shall be such amount as is asserted by the non-debtor counterparty to such Contract.

389. “Unpaid Cure Claims Reserve” means the reserve for any Unpaid Cure Claim Amount which ASARCO may be required to reimburse the Plan Sponsor, in accordance with section 3.5(d) of the Plan Sponsor PSA.

390. “Unsecured Asbestos Personal Injury Claim” means any Asbestos Personal Injury Claim that is an Unsecured Claim.

391. “Unsecured Asbestos Personal Injury Claimant” means the holder of an Unsecured Asbestos Personal Injury Claim.

392. “Unsecured Claim” means any Claim that is not an Administrative Claim, a Secured Claim, a Priority Claim, or a Priority Tax Claim, including, without limitation, (a) any claim arising from the rejection of an executory contract or unexpired lease under section 365 of the Bankruptcy Code and (b) any portion of a Claim to the extent the value of the holder’s interest in the Estate’s interest in the property securing such Claim is less than the amount of the Claim or, to the extent that the amount of the Claim subject to setoff is less than the amount of the Claim, as determined pursuant to section 506(a) of the Bankruptcy Code.

393. “USDA” means the United States Department of Agriculture.

394. “U.S. Trustee” means the United States Trustee for the Southern District of Texas.

395. “USW” means the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC.

396. “Ventura Warehouse” means ASARCO’s warehouse located at 25 E. Ventura in Tucson, Arizona.

397. “Vested Causes of Action” means the Litigation Claims that shall vest in Reorganized ASARCO, as listed on **Exhibit 14-A** to the Plan.

398. “Vested Causes of Action Escrow” means the escrow account established by the Plan Administrator in which the Vested Causes of Action Proceeds shall be placed.

399. “Vested Causes of Action Proceeds” means the proceeds from the prosecution, compromise, and settlement of the Vested Causes of Action.

400. “Voting Record Date” means _____, the record date established by the Bankruptcy Court for purposes of deciding which Claimants are entitled to vote on the Plan.

401. “WHM Copper Mountain” means WHM Copper Mountain Investments, LLC.

402. “Winterthur Swiss” means Winterthur Swiss Insurance Company.