

13.3 Distribution Record Date. Reorganized ASARCO and the Parent's Plan Administrator shall have no obligation to recognize the transfer of, or the sale of any participation in, any Allowed Claim that occurs after the Distribution Record Date and shall be entitled for all purposes herein to recognize and make distributions only to those holders of Allowed Claims that are holders of such Claims or participants therein, as of the Distribution Record Date. As of the close of business on the Distribution Record Date, each transfer register for the Bonds, as maintained by the applicable Indenture Trustee, shall be closed. Reorganized ASARCO and the Parent's Plan Administrator shall have no obligation, and are not permitted, to recognize the transfer or sale of any Bondholder Claim that occurs after the close of business on the Distribution Record Date and shall be entitled for all purposes herein to recognize and make distributions only to those holders who are holders of such Claims as of the close of business on the Distribution Record Date; provided, however, that with respect to Bondholder Claims, further distributions on account of such Claims by the Indenture Trustees to the record holders of the Bondholder Claims shall not be made as of the Distribution Record Date but rather shall be accomplished in accordance with the respective Indentures and the policies and procedures of DTC.

13.4 Unclaimed Property.

(a) *Distributions by the Section 524(g) Trust.*

Any Cash, assets, or other property to be distributed under the Parent's Plan by the Section 524(g) 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 Section 524(g) Trust for use in accordance with the terms of the Section 524(g) Trust Documents.

(b) *Distributions by the Parent's Plan Administrator.*

(1) If the distribution to any holder of an Allowed Claim is returned to Reorganized ASARCO or the Parent's 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 Parent's 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. The amounts in respect of such undeliverable and/or unclaimed distributions shall be returned to the Parent's Plan Administrator until such distributions are claimed. The Parent's Plan Administrator shall segregate and deposit into an escrow account (the "Undeliverable and Unclaimed Distribution Reserve") all undeliverable and/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 the Parent's Plan shall require Reorganized ASARCO or the Parent's 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 negotiate 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 (the "Forfeited Distributions") shall become vested in, and shall be transferred and delivered to, the Parent's Plan Administrator. In such event, such Claimant shall be deemed to have waived its rights to such payments or distributions under the Parent's 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 the Parent's Plan with respect to such Claim. The Parent's Plan Administrator shall distribute the Forfeited Distributions to Reorganized ASARCO as a Subsequent Distribution.

13.5 Compliance with Tax Requirements. Reorganized ASARCO, the Parent's Plan Administrator and the Section 524(g) Trust 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 Parent's Plan Document shall be subject to such withholding and reporting requirements, if any. Notwithstanding any other provision of the Parent's Plan, each Person receiving a distribution pursuant to the Parent's Plan, or any other Parent's Plan Document, shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any Governmental Authority, 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 Parent's 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 the Parent's Plan any Claims of any nature whatsoever the Estate of the applicable Debtor 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 Parent's Plan Administrator, as the case may be, of any such Claim against such holder or right of setoff or recoupment that the applicable Estate 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 will 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. No estate funds will be expended by the Parent's Plan Administrator to support or defend settlements achieved by the Debtors prior to the Effective Date where the order approving such settlement has not become a final order.

13.8 Disputed Claims Reserve.

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

(b) On the Effective Date (or as soon thereafter as is reasonably practicable), Reorganized ASARCO or the Parent's Plan Administrator, as the case may be, shall deposit Cash and/or other forms of consideration in the Disputed Claim Reserve that would have been

distributed to the holders of Disputed Claims if such Disputed Claims had been Allowed Claims on the Effective Date. This amount will 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 for purposes of distribution pursuant to section 502(c) of the Bankruptcy Code, or (3) the amount otherwise agreed to by the applicable Debtor and the holders of such Disputed Claims.

(c) The Parent, Reorganized ASARCO, and/or the Parent's Plan Administrator may seek Bankruptcy Court approval to reduce the size of the Disputed Claims Reserve based upon the amount of the remaining Disputed Claims or other changed circumstances.

(d) In the case of objections to allegedly Secured Claims, any Lien asserted by the holder of such a Claim against assets that revest in or is transferred to Reorganized ASARCO shall remain in place, pending resolution of the objection to the allegedly Secured Claim.

(e) The Parent's Plan Administrator (at such time as determined to be practicable by the Parent's Plan Administrator) shall distribute from the Disputed Claims Reserve to the holder of any Disputed Claim that has become an Allowed Claim, not later than the tenth Business Day after the end of the calendar month in which such Disputed Claim becomes an Allowed Claim, an amount equal to such Claim as if such Claim had been an Allowed Claim on the Effective Date.

(f) If a Disputed Claim is disallowed, in whole or in part, the Parent's Plan Administrator shall (at such time as determined to be practicable by the Parent's Plan Administrator) distribute the Cash reserved in respect of such disallowed Disputed Claim, Pro Rata: first, to holders of Claims in Class 3 (and, pending resolution of Disputed Claims in Class 3, the Disputed Claims Reserve); second, upon Payment in Full of Claims in Class 3, to holders of Claims in Class 6 (and, pending resolution of Disputed Claims in Class 6, the Disputed Claims Reserve); third, upon Payment in Full of Claims in Class 6, to holders of Claims in Class 7 (and, pending resolution of Disputed Claims in Class 7, the Disputed Claims Reserve); and fourth, upon payment in Full of Claims in Class 7, to Reorganized ASARCO; provided that, in no event shall any holder of an Allowed Claim in Class 3, 6, or 7 receive distributions which exceed the Allowed amount of such Claim. To the extent there are any excess funds in Disputed Claims Reserve after all distributions required by the Parent's Plan have been made, the Parent's Plan Administrator shall make a Subsequent Distribution of such funds to Reorganized ASARCO.

(g) The Disputed Claims Reserve is intended to be treated as a "disputed ownership fund" within the meaning of Treasury Regulation section 1.468B-9(b)(1), and hence as a taxable entity for federal income tax purposes, and the Parent's Plan Administrator will be the "administrator" of the Disputed Claims Reserve pursuant to Treasury Regulation section 1.468B-9(b)(2). In general, the Disputed Claims Reserve will be treated in the same manner as a "qualified settlement fund" for federal income tax purposes. The Parent's Plan Administrator will cause all taxes imposed on the Disputed Claims Reserve to be paid using assets of the Disputed Claims Reserve and will comply with all tax reporting and withholding requirements imposed on the Disputed Claims Reserve under applicable tax laws, and in particular the rules applicable to a disputed ownership fund.

13.9 Surrender of Bondholder Certificates; Lost Certificates. With respect to each Allowed Bondholder Claim, each holder of an instrument evidencing such Allowed Bondholder Claim (a "Certificate") shall surrender such Certificate to the Indenture Trustee or the Parent's 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 Parent's 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 Parent's 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 Parent's 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 the Parent's 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.

Any holder of an Allowed Bondholder 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 Parent's Plan Administrator, as the case may be: (i) evidence satisfactory to the Indenture Trustee or the Parent's Plan Administrator, as the case may be, of the loss, theft, mutilation or destruction; and (ii) such security or indemnity as may be required by the Indenture Trustee or the Parent's 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 by a holder of an Allowed Bondholder Claim, such holder shall, for all purposes under the Parent's Plan, be deemed to have surrendered the applicable Certificate.

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

Notwithstanding the foregoing, if the record holder of a Bondholder Claim is the Depository Trust Company or its nominee or such other securities depository or custodian thereof, or if a Bondholder Claim is held in book-entry or electronic form pursuant to a global security held by the Depository Trust Company, then the beneficial holder of such an Allowed Bondholder 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 the Depository Trust Company or such other securities depository or custodian thereof.

13.10 Cancellation of Instruments. When all Allowed Bondholder Claims with respect to any Bond Issuance are satisfied by the payment under the Parent's Plan, then, on the Effective Date, all promissory notes, instruments, indentures, bonds, agreements, or other

documents evidencing, giving rise to, or governing any Claim against any Debtor (including the applicable Indenture and the Bonds) with respect to such Bond Issuance shall be deemed cancelled and shall represent only the right to participate in the distributions hereunder. Notwithstanding the foregoing and anything else contained in the Parent's Plan, the Indentures for each Bond Issuance will continue in effect solely for the purposes of (i) allowing distributions to be made under the Parent's 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; (ii) 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 the Parent's Plan for Indenture Trustee Fee Claims; (iii) permitting the Indenture Trustees to assert, in accordance with the terms of the Parent's Plan and Confirmation Order, 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 the Parent's Plan and applicable law to any such asserted right or Claims; and (iv) permitting each Indenture Trustee to exercise, in accordance with the terms of the Parent's Plan and Confirmation Order, its rights and obligations relating to the interests of the holders of Bondholder Claims and its relationship with the holders of Bondholder Claims pursuant to the applicable Indenture, including its right to appear and be heard in these chapter 11 cases and any appeals.

ARTICLE XIV

PROCEDURES FOR TREATING DISPUTED CLAIMS

14.1 Objections to Claims. After the Effective Date, Reorganized ASARCO and the Parent's Plan Administrator shall have the exclusive right to file objections to Claims (other than objections to Asbestos Personal Injury Claims and Demands, and objections to Claims that have been Allowed by Final Order) and litigate to judgment, settle, or withdraw such objections to Disputed Claims (including any Claims subject to a pending estimation motion). Without limiting the preceding, Reorganized ASARCO and the Parent's Plan Administrator 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 Section 524(g) Trust shall have the authority to file objections to Asbestos Personal Injury Claims and Demands and litigate to judgment, settle, or withdraw such objections, and Asbestos Personal Injury Claims and Demands, whether or not a Proof of Claim is filed, shall be satisfied exclusively in accordance with the Parent's Plan, the Section 524(g) Trust Agreement, and the Section 524(g) Trust Distribution Procedures. For the avoidance of doubt, no objection to Asbestos Personal Injury Claims or Demands shall be filed in the Bankruptcy Court.

14.2 Objection Deadline. Within the later of (a) 90 days after the Confirmation Date or (b) 90 days after a Proof of Claim is filed, objections to Claims (other than Asbestos Personal Injury Claims and Demands, which shall be Allowed or disallowed as provided in the Section 524(g) Trust Distribution Procedures) shall be filed with the Bankruptcy Court; provided, however, that Reorganized ASARCO and/or the Parent's Plan Administrator may seek to extend such period (or any extended period) for cause.

14.3 Disallowance of Improperly Filed Claims. Any Administrative Claim or other Claim (except for an Asbestos Personal Injury Claim or a Demand) for which the filing of a motion for allowance is required shall be disallowed if such filing is not timely and properly made, subject to the right of the Claimant to seek permission under applicable law to file a late claim. Any Administrative Claim timely filed on the Proof of Administrative Claim (found in Exhibit B to Docket #8549) pursuant to Docket #8549 shall not require a motion for allowance.

ARTICLE XV

MISCELLANEOUS

15.1 General Retention of Jurisdiction. Until the Reorganization Cases are closed, the Bankruptcy Court (and, with respect to the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction, the District Court) shall retain the fullest and most extensive jurisdiction permissible, including, without limitation, that necessary (a) to ensure that the purposes and intent of the Parent's Plan are carried out, (b) to enforce and interpret the terms and conditions of the Parent's Plan Documents, and (c) to enter such orders or judgments, including, without limitation, injunctions necessary to enforce the rights, title, and powers of the Debtors, Reorganized ASARCO, a Settling Asbestos Insurance Company, the Parent and/or other ASARCO Protected Party. Except as otherwise provided in the Parent's Plan, the Bankruptcy Court shall retain jurisdiction to hear and determine all Claims against and Interests in 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 Parent's Plan Administrator, the Parent, the Section 524(g) Trustees, the Litigation Trustees, or the Environmental Custodial 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 the applicable Debtor, 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 Section 524(g) Trust. The Section 524(g) Trust shall be subject to the continuing jurisdiction of the Bankruptcy Court in accordance with the requirements of section 468B of the Internal Revenue Code and the regulations issued pursuant thereto.

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 the Parent's Plan after entry of the Confirmation Order, pursuant to the provisions of the Parent's Plan, the Bankruptcy Code, and the Bankruptcy Rules;
- (b) correct any defect, cure any omission, reconcile any inconsistency, or make any other necessary changes or modifications in or to the Parent's Plan, the Parent's Plan Documents, or the Confirmation Order as may be necessary to carry out the purposes and intent of the Parent's Plan;

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

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

(e) hear and determine disputes arising in connection with the execution, interpretation, implementation, consummation, or enforcement of the settlement agreements, asset purchase agreements or other agreements entered into by any of the Debtors during the Reorganization Cases (the "Other Agreements"), or to enforce, including by specific performance, the provisions of the Other Agreements;

(f) 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 the Parent's Plan, including, without limitation, to issue, administer, and enforce injunctions, releases, assignments, transfers of property or property rights, or other obligations contained in the Parent's Plan and the Confirmation Order;

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

(h) enter such orders or judgments, including injunctions, as necessary to enforce the title, rights, and powers of any of the Debtors, Reorganized ASARCO, the Parent, the Parent's Plan Administrator or the Trusts;

(i) hear and determine any and all 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 the Parent's Plan;

(j) hear and determine any and all motions, applications or adversary proceedings brought by Reorganized ASARCO against Sterlite and Sterlite's affiliates;

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

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

(m) alter the size of the Disputed Claims Reserve based upon the amount of the remaining Disputed Claims or other changed circumstances;

(n) 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, to the fullest extent permitted by the provisions of section 157 of title 28 of the United States Code;

(o) 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;

(p) 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, Reorganized ASARCO, the Parent's Plan Administrator and/or the Trusts arising on or prior to the Effective Date, arising on account of transactions contemplated by the Parent's Plan Documents, or relating to the period of administration of the Reorganization Cases;

(q) 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;

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

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

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

(u) hear and determine any and all 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;

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

(w) 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;

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

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

(z) retain continuing jurisdiction with regard to the Section 524(g) Trust sufficient to satisfy the requirements of Treasury Regulation section 1.468B;

(aa) hear and determine any and all applications brought by the Section 524(g) Trustees to amend, modify, alter, or repeal any provision of the Section 524(g) Trust Agreement or the Section 524(g) Trust Distribution Procedures pursuant to the Section 524(g) Trust Agreement and to declare or resolve all issues or disputes contemplated by the Section 524(g) Trust Agreement;

(bb) enter and implement orders extending the Asbestos Insurance Company Injunction to insurance companies that become Settling Asbestos Insurance Companies after the Effective Date;

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

(dd) 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 are related to the Parent's Plan.

15.4 Exclusive Jurisdiction of District Court for Certain Matters.

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

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

15.5 Post-Effective Date Status of the Committees and the FCR. The Committees and the position of the FCR shall continue in existence until the Effective Date, with ASARCO to pay the reasonable fees and expenses of the Committees and the FCR through the Effective Date in accordance with the fee and expense procedures promulgated during the Reorganization Cases. 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/or reimbursement of expenses as permitted by law. On and after the Effective Date, Judge Robert C. Pate shall serve as the FCR, as such term is defined in the Section 524(g) Trust Agreement, and shall have and exercise the functions, rights, duties, powers and privileges provided in the Section 524(g) Trust Documents, if Judge Robert C. Pate is willing to so serve. If not, the Bankruptcy Court will appoint his replacement. Except as provided in this subsection or above, the Committees shall be dissolved on the Effective Date, and the members, attorneys, accountants, and other professionals thereof shall be released and discharged of and from all further authority, duties, responsibilities, liabilities, and obligations related to, or arising from, the Reorganization Cases.

15.6 Modification of Parent's Plan. The Parent may alter, amend or modify the Parent's Plan under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. After the Confirmation Date, the Parent or Reorganized ASARCO, as the case may be, may, under section 1127(b) of the Bankruptcy Code, seek Bankruptcy Court approval to remedy any defects or omissions or reconcile any inconsistencies in the Parent's Plan or the Confirmation Order in such manner as may be necessary to carry out the purposes and intent of the Parent's Plan, so long as the proposed alteration, amendment or modification does not adversely affect the treatment of Claims or Interests under the Parent's Plan.

15.7 Non-Consummation. If the Parent's Plan is not Confirmed by a Final Order, or if the Parent's Plan is Confirmed and does not become effective, the rights of all parties in interest in the Debtors' chapter 11 cases, including the Parent, are and will be reserved in full. Any concessions or settlements reflected herein (if any), are made for purposes of the Parent's Plan only, and if the Parent's Plan does not become effective, then (i) no party in interest shall be bound or deemed prejudiced by any such concession or settlement, (ii) the Parent's Plan shall be null and void in all respects, (iii) any settlement or compromise embodied in the Parent's Plan, assumption or rejection of executory contracts or leases affected by the Parent's Plan, and any document or agreement executed pursuant to the Parent's Plan shall be deemed null and void, (iv) nothing contained in the Parent's Plan, and no acts taken in preparation for consummation of the Parent's Plan, shall prejudice in any manner the rights of the Parent or constitute an admission or waiver of any sort by the Parent, and (v) the structure of the Parent's Plan and the classification of creditors or groups of creditors within one Class contained herein shall have no evidentiary or precedential effect.

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

15.9 Rules Governing Conflicts Between Documents. In the event of a conflict between the terms or provisions of the Parent's Plan and the Parent's Plan Documents, the terms

of the Parent's Plan shall control over the Parent's Plan Documents. In the event of a conflict between the terms of the Parent's Plan or the Parent's 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.

15.10 Severability. In the event any provision in the Parent's Plan should be determined to be unenforceable either on its face or as applied to any Claim, Demand, Interest or transaction, the Parent may modify the Parent's 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 the Parent's Plan or (b) require the re-solicitation of any acceptance or rejection of the Parent's Plan.

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

15.12 Bar Date for Compensation and Reimbursement Claims. All applications for final allowances of compensation or reimbursement of expenses under section 330 of the Bankruptcy Code or applications for allowance of Administrative Claims arising under subsections (b)(2) through (b)(6) of section 503(b) of the Bankruptcy Code must be filed on or before 90 days after the Effective Date, unless otherwise ordered by the Bankruptcy Court; save and 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 twenty days after the applicable application for compensation or reimbursement was filed.

15.13 Subsequent Administrative Claims Bar Date. Claimants, other than Professionals Persons, holding Administrative Claims against any of the Debtors that arise after the Initial Administrative Claims Bar Date (a "Subsequent Administrative Claim") that remain unpaid on the Effective Date must file a request for payment of 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 will be forever barred from asserting such Subsequent Administrative Claim against any of the Debtors, Reorganized ASARCO or their respective properties, and such Subsequent Administrative Claim will 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 filed, 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 Trusts.

15.14 Indenture Trustee Fee Claims.

(a) If, at least 20 days prior to the commencement of the Confirmation Hearing, the Parent receives 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 Parent, the Parent 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 Parent disputes any portion of the Indenture Trustee Fee Claims, prior to the Effective Date the Debtors and/or the Parent 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 Parent's objections to such Indenture Trustee Fee Claim. On the Effective Date, the Parent 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 Parent reserves 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 Parent 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.

15.15 Governing Law. Except to the extent that federal law (including, without limitation, the Bankruptcy Code and the Bankruptcy Rules) is applicable or the Parent's Plan provides otherwise, the rights and obligations arising under the Parent's Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without giving effect to its conflicts of law principles.

15.16 Consent to Jurisdiction. Except for the matters within the exclusive jurisdiction of the District Court as described in Article 15.4 hereof, the Debtors, the Parent, Reorganized ASARCO, the Parent's Plan Administrator, the Trustees, the Trusts, the Section 524(g) Trust Advisory Committee, and the FCR consent to the jurisdiction of the Bankruptcy Court, or any successor thereto, for all proceedings relating to the enforcement of the Parent's Plan and/or the Parent's 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 Parent's Plan Administrator, the Section 524(g) Trustees, the Section 524(g) Trust, the Section 524(g) Trust Advisory Committee, 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.

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

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

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

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

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

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[Remainder of page intentionally blank.]

The undersigned have executed this Modified Fifth Amended Plan of Reorganization as of the 2 day of July, 2009.

Respectfully submitted,

ASARCO INCORPORATED, a Delaware corporation

By: 

Name: Jaime F. Collazo Gonzalez
Title: CEO and President

By: 

Name: Jorge Lazalde Psihas
Title: Vice President and General Counsel

AMERICAS MINING CORPORATION, a Delaware corporation

By: 

Name: Alberto de la Parra Zavala
Title: General Counsel

By: 

Name: Jorge Lazalde Psihas
Title: Assistant Secretary

**EXHIBIT B-3
TO THE DISCLOSURE STATEMENT**

Harbinger's Plan

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

_____	X	
In re:	:	
	:	Chapter 11
ASARCO LLC, et al.,	:	
	:	Case No. 05-21207
	:	
Debtors.	:	Jointly Administered
	:	
_____	X	

**SECOND AMENDED CHAPTER 11 PLAN FILED BY HARBINGER
CAPITAL PARTNERS MASTER FUND I, LTD.**

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Dated: July 2, 2009

Table of Contents

ARTICLE I	DEFINITIONS, RULES OF INTERPRETATION, AND COMPUTATION OF TIME.....	1
1.1.	Defined Terms	1
1.2.	Rules of Interpretation	1
1.3.	Computation of Time.....	1
ARTICLE II	TREATMENT OF ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS AND UNKNOWN ASBESTOS CLAIMS	1
2.1.	Administrative Claims	1
2.2.	Priority Tax Claims.....	2
2.3.	Unknown Asbestos Claims	2
ARTICLE III	CLASSIFICATION OF CLAIMS AND INTERESTS	2
3.1.	Generally	2
3.2.	Classes of Claims and Interests.....	2
ARTICLE IV	TREATMENT OF CLAIMS AND INTERESTS	3
4.1.	Unclassified Claims	3
4.2.	Classes of Claims and Interests.....	3
4.3.	Subordinated Indemnification of ASARCO Protected Parties	6
4.4.	Intercompany Claims	7
ARTICLE V	VOTING RIGHTS.....	7
5.1.	Each Impaired Class Entitled to Vote Separately	7
5.2.	Presumed Acceptance of Plan.....	8
5.3.	Presumed Rejection of Plan	8
5.4.	Cramdown.....	8
ARTICLE VI	THE LIQUIDATION TRUST AND THE SCC LITIGATION TRUST	8
6.1.	The Liquidation Trust	8
6.2.	The SCC Litigation Trust.....	17
ARTICLE VII	THE ASBESTOS Claims Liquidation TRUST	26
7.1.	Creation of the Asbestos Claims Liquidation Trust.....	26
7.2.	Appointment of Asbestos Claims Liquidation Trustees.	26
7.3.	The FCR.....	26
7.4.	Asbestos Claims Liquidation Trust Board	26
7.5.	Purpose of the Asbestos Claims Liquidation Trust.....	26
7.6.	Transfers, Assignments, and Payments to the Asbestos Claims Liquidation Trust	27
7.7.	Asbestos Claims Liquidation Trust Agreement.....	27
7.8.	Intentionally Omitted.	27
7.9.	Assumption of Liabilities by the Asbestos Claims Liquidation Trust	27
7.10.	Intentionally Omitted.	27
7.11.	Tax Treatment of the Asbestos Claims Liquidation Trust.....	27

7.12.	Asbestos Claims Liquidation Trust Expenses.....	28
7.13.	Asbestos Books.....	28
7.14.	Cooperation with Respect to Insurance Matters	29
7.15.	Termination of the Asbestos Claims Liquidation Trust.....	30
7.16.	Termination of the Asbestos Claims Liquidation Trustees and the Delaware Trustee	30
ARTICLE VIII	TREATMENT OF EXECUTORY AND POST-PETITION CONTRACTS AND UNEXPIRED LEASES.....	30
8.1.	Assumption or Rejection of Unexpired Leases and Executory Contracts	30
8.2.	Approval of Assumption or Rejection of Executory Contracts and Unexpired Leases.....	31
8.3.	Inclusiveness.....	31
8.4.	Rejection Damages	31
8.5.	Rejection Damages Bar Date.....	31
8.6.	Payments Related to Assumption of Executory Contracts and Unexpired Leases.....	31
8.7.	Contracts and Leases Previously Assumed or Entered into After the Petition Date.....	32
8.8.	Employee Benefits Plans, Retiree Benefits, and Other Benefits.	33
8.9.	Bonds and Assurances	34
ARTICLE IX	CONDITIONS TO CONFIRMATION AND EFFECTIVENESS.....	34
9.1.	Conditions to Confirmation	34
9.2.	Waiver of Conditions Precedent to Confirmation	35
9.3.	Conditions to Effectiveness	35
9.4.	Waiver of Conditions to Effectiveness	38
9.5.	Notice of Effective Date	38
9.6.	Non-Occurrence of Effective Date	38
ARTICLE X	IMPLEMENTATION OF THIS PLAN	38
10.1.	Sale of Sold Assets to Plan Sponsor.	38
10.2.	Appointment of Plan Administrator and Plan Administration Committee, and Funding of Miscellaneous Plan Administration Accounts.	39
10.3.	Resolution of Present and Future Asbestos Claims	41
10.4.	Distribution of Available Plan Funds	41
10.5.	Creation and Funding of the Liquidation Trust and the SCC Litigation Trust	41
10.6.	Asbestos Claims Liquidation Trust Creation and Funding.....	41
10.7.	Environmental Custodial Trusts Creation and Funding	42
10.8.	Prepetition ASARCO Environmental Trust.....	42
10.9.	Operations Between the Confirmation Date and the Effective Date	42
10.10.	Cancellation of Existing Interests	43

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.....	43
10.12.	Issuance of Interests in Reorganized ASARCO	44
10.13.	Issuance of Interests in Reorganized Covington.....	44
10.14.	Charter Documents of the Reorganized Debtors	44
10.15.	Management of the Reorganized Debtors.....	45
10.16.	Reorganized Debtors' Name Changes	45
10.17.	Continued Corporate Existence and Business Operations of the Reorganized Debtors.....	45
10.18.	Plan Sponsor's Assumption of Certain Environmental Liabilities	45
10.19.	Revesting of Assets.....	45
10.20.	Vesting and Enforcement of Causes of Action.....	46
10.21.	Dismissal of Certain Litigation.....	46
10.22.	Further Authorizations	47
10.23.	Effectuating Documents and Further Transactions.....	47
10.24.	Corporate Action.....	47
10.25.	Execution of Plan Documents.....	47
10.26.	Intentionally Omitted.....	47
10.27.	Approval of Mission Mine Settlement Agreement.....	47
ARTICLE XI	INJUNCTIONS, RELEASES, AND DISCHARGE	47
11.1.	Discharge and Release	47
11.2.	Discharge Injunction	48
11.3.	Channeling Order – Unknown Asbestos Claims.	48
11.4.	Intentionally Omitted.....	48
11.5.	Reservations	48
11.6.	Limitation of Injunctions	49
11.7.	Exoneration and Reliance	49
11.8.	Fee Shifting.....	49
11.9.	Additional Releases	50
11.10.	Exculpation Injunction and Indemnities.	50
11.11.	Consensual Releases by Holders of Claims and Interests	51
11.12.	Release of Fraudulent Transfer Claims Against Settling Asbestos Insurance Companies	52
11.13.	Limitations Regarding Governmental Units and the U.S. Trustee.	52
11.14.	Limitation Regarding Flow Through Bonds.....	53
11.15.	Discharge, Injunctions, and Releases Integral to this Plan	53
ARTICLE XII	MATTERS INCIDENT TO PLAN CONFIRMATION.....	54
12.1.	Term of Certain Injunctions and Automatic Stay.....	54
12.2.	No Liability for Tax Claims.....	54
12.3.	No Successor Liability.....	54
12.4.	Asbestos Insurance Actions and Preservation of Insurance Claims and Defenses	55
12.5.	Insurance Neutrality.....	55

ARTICLE XIII	PROVISIONS GOVERNING DISTRIBUTIONS	57
13.1.	Plan Distributions.....	57
13.2.	Delivery of Distributions.	58
13.3.	Intentionally Omitted.	59
13.4.	Unclaimed Property.	59
13.5.	Compliance with Tax Requirements.....	60
13.6.	Setoffs and Recoupments.....	60
13.7.	No Distribution Pending Allowance.....	61
13.8.	Disputed Claims Reserve.....	61
13.9.	Surrender of Bondholder Certificates; Lost Certificates.	62
13.10.	Cancellation of Instruments	63
ARTICLE XIV	PROCEDURES FOR TREATING DISPUTED CLAIMS	63
14.1.	Objections to Claims.....	63
14.2.	Objection Deadline	64
14.3.	Disallowance of Improperly Filed Claims.....	64
ARTICLE XV	MISCELLANEOUS	64
15.1.	General Retention of Jurisdiction	64
15.2.	Jurisdiction over the Asbestos Claims Liquidation Trust and the Environmental Custodial Trusts	65
15.3.	Specific Purposes	65
15.4.	Post-Effective Date Status of the Committees and the FCR.....	67
15.5.	Modification of Plan	68
15.6.	Revocation, Withdrawal, or Non-Consummation	68
15.7.	Entire Agreement	68
15.8.	Rules Governing Conflicts Between Documents	68
15.9.	Severability	68
15.10.	Headings	69
15.11.	Bar Date for Compensation and Reimbursement Claims	69
15.12.	Subsequent Administrative Claims Bar Date	69
15.13.	Indenture Trustee Fee Claims.	69
15.14.	Governing Law	70
15.15.	Consent to Jurisdiction.....	70
15.16.	Transfer Taxes	70
15.17.	Recordable Order	70
15.18.	Successors and Assigns.....	70
15.19.	Waiver of Rights	71
15.20.	Notices	71
15.21.	Retention and Disposal of Retained Books and Records (Other than Asbestos Books).....	73

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 Claims Liquidation 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”) proposes 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 Claims Liquidation Trust shall have an Allowed Administrative Claim for its administrative expenses in the amount of \$27.5 million. 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.

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 Claims Liquidation 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.*

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 15.13 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 Claims Liquidation 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 Claims Liquidation Trust, acting under the control and direction of the Asbestos Claims Liquidation Trustee, pursuant to the terms and provisions of the Asbestos Claims Liquidation Trust Agreement. The Asbestos Claims Liquidation 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 Claims Liquidation Trust, as operated by the Asbestos Claims Liquidation Trustees (including Reorganized ASARCO), 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.

The Asbestos Claims Liquidation Trust shall be funded with (a) 100 percent of the interests in Reorganized Covington; (b) the Class 4 Pro Rata Share of the Plan Consideration and (c) the Asbestos Claims Liquidation Trust Administrative Claim.

The Proponent reserves the right prior to the Confirmation Date to add such additional provisions in the Asbestos Claims Liquidation 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 Unsecured Asbestos Personal Injury Claims in Class 4 are entitled to vote to accept or reject this Plan.

(e) *Class 5 — Convenience Claims.*

On the Effective Date, each holder of an Allowed 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 the residual interests in the Asbestos Claims Liquidation Trust.

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 ASARCO Protected Parties. In connection with the purchase by the Plan Sponsor of the Sold Assets, the Asbestos Claims Liquidation Trust shall indemnify and hold the ASARCO Protected Parties and their 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 (i) any claim arising from or relating to the Plan Sponsor's purchase of the Sold Assets pursuant to the Plan Sponsor PSA or (ii) any claim related to any Unsecured Asbestos Personal Injury Claim or Unknown Asbestos Claim, provided, however, that the obligations of the Asbestos Claims Liquidation Trust with respect to such indemnity shall be subordinate in all respects to the payment in full of all Class 4 Claims.

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 Claims Liquidation 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, and 4 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 Claims Liquidation 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 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.

Notwithstanding this section (c), the Proponent may, prior to the Effective Date, amend the Liquidation Trust Agreement to do any of the following: increase or decrease the number of members of the Liquidation 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 Liquidation Trustee in respect of the Liquidation Trust Claims.

(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 22 of the Disclosure Statement, "Certain Tax Consequences of Harbinger's 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 Claims Liquidation 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 Claims Liquidation Trust, based on the Class 4 Claims Estimate.

On the Initial Distribution Date, residual Liquidation Trust Interests shall also be issued to the holders of claims in Class 6 and Class 7 on a Pro Rata basis for distributions to be made in accordance with the Trust Priorities.

Liquidation Trust Interests will be divided into four classes: Class A Liquidation Trust Interests, Class B Liquidation Trust Interests, Class C Liquidation Trust Interests and Class D 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," all Liquidation Trust Interests issued to the Asbestos Claims Liquidation Trust for the benefit of Unsecured Asbestos Personal Injury Claimants shall be designated "Class C Liquidation Trust Interests" and all residual Liquidation Trust Interests issued to holders of claims in Class 6 and 7 shall be designated "Class D Liquidation Trust Interests." The designation of Liquidation Trust Interests as Class A, Class B, Class C and Class D 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.

Promptly following notice from the Plan Administrator that the Disputed Claim of a Non- Environmental Unsecured Claimant or Governmental Environmental Claimant has become 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 against the Asbestos Claims Liquidation Trust exceed the Class 4 Claims Estimate, additional Class C Liquidation Trust Interests shall be issued to the Asbestos Claims Liquidation Trust such that the Asbestos Claims Liquidation Trust will have received a 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 Claims Liquidation Trust Agreement exceed the Class 4 Claims Estimate after the Liquidation Trust has begun making cash distributions on account of such interests, those Allowed Claims in excess of the Class 4 Claims Estimate shall be entitled to receive additional distributions from the Liquidation Trust (to be paid through the Asbestos Claims Liquidation 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.

Promptly filing notice from the Plan Administrator that the Disputed Claim of a Class 6 or Class 7 Claimant becomes an Allowed Claim, such Claimant shall be issued residual Liquidation Trust Interests in accordance with the principles set forth in the preceding paragraph.

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.

(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;

(3) third, to pay the Liquidation Trust Beneficiaries pro rata based on their Liquidation Trust Interest holdings in accordance with the Trust Interest Priorities and as set forth herein. Such proceeds shall first be paid to holders of Allowed Amounts of Claims in Class 3 and Class 4, on a Pro Rata basis until such claims are paid in full.

Proceeds paid on account of Allowed Amounts of Class 4 Claims shall be paid to the Asbestos Claims Liquidation Trust and thereafter distributed in accordance with the Asbestos Claims Liquidation Trust Documents. After all Class 3 Disputed Claims are resolved and if all holders of Class A, Class B and Class C Liquidation Trust Interests have received the full amount of their Allowed Claims, then the Liquidation Trustee shall pay such remaining proceeds in accordance with the Trust Interest Priorities as follows: (a) first to the holders of Allowed Class 6 Claims, on a Pro Rata basis, until such claims are paid in full, (b) second on account of post-petition interest on any Allowed Amounts of Class 3, Class 4 (such Class 4 amounts being distributed to the Asbestos Claims Liquidation Trust) and Class 6 Claims, (c) third on account of Class 7 Claims, on a pro rata basis, until such claims are paid in full and (iv) on account of post-petition interest on any Allowed Amounts of Class 7 Claims; and

(4) fourth, if (a) after all Class 6 and Class 7 Disputed Claims are resolved and (b) all amounts set forth above have been paid in full, then all such remaining proceeds shall be paid to the Asbestos Claims Liquidation Trust to be used in accordance with the Asbestos Claims Liquidation Trust Documents.

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 Asbestos Claims Liquidation Trust to be used in accordance with the Asbestos Claims Liquidation Trust Documents.

(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 fifth (5th) 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 Trust Claims 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' interests in the SCC Litigation Trust Claims are to be transferred in their entirety, the auction proceeds shall be distributed as Plan Consideration and the SCC Litigation Trust will not be created (and no SCC Litigation Trust Interests will be distributed under this Plan). If the Debtors decide, as a result of the auction and subject to the consent of the Proponent, to transfer only a portion of their interests in the SCC Litigation Trust Claims, the SCC Litigation Trust will be created and the remaining SCC Litigation Trust Interests shall be issued in accordance herewith. 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 Trust Claims 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 Asbestos Claimants' Committee, by the Asbestos Claims Liquidation 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 SCC Litigation Trust Board, by the then-current other 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 any of the SCC Litigation Trust Claims prior to the Effective Date, the proceeds of the settlement shall be distributed to the SCC Litigation Trust Beneficiaries in the same manner as the SCC Litigation Trust Interests. In the event of such a settlement ASARCO shall hold the proceeds in escrow for distribution on the Effective Date.

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 22 of the Disclosure Statement, “Certain Tax Consequences of Harbinger’s 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 Claims Liquidation Trust (for the benefit of Unsecured Asbestos Personal Injury Claimants and Unknown Asbestos Claimants), (iii) the Non-Environmental Unsecured Claimants, (iv) the Governmental Environmental Claimants and (v) holders of claims in Class 6 and Class 7 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.”

On the Initial Distribution Date, SCC Litigation Trust Interests shall also be issued to (i) the Asbestos Claims Liquidation 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 Claims Liquidation Trust, based on the Class 4 Claims Estimate.

On the Initial Distribution Date, residual SCC Litigation Trust Interests shall also be issued to the holders of claims in Class 6 and Class 7 for distributions to be made in accordance with the Trust Interest Priorities.

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,” all SCC Litigation Trust Interests issued to the Asbestos Claims Liquidation Trust shall be designated “Class C SCC Litigation Trust Interests,” and all residual Liquidation Trust Interests issued to holders of claims in Class 6 and 7 shall be designated “Class E SCC Litigation Trust Interests.” The designation of Litigation Trust Interests as Class A, Class B, Class C, Class D and Class E is solely for purposes of appointing members of the SCC Litigation Trust Board as described above.

Promptly following notice from the Plan Administrator that the Disputed Claim of a Non-Environmental Unsecured Claimant or Governmental Environmental Claimant has become an Allowed Claim, such Claimant shall be issued SCC Litigation Trust Interests in such amount that upon issuance the ratio of the number of such SCC Litigation Trust Interests so issued to the total number of 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 all Class A, Class B and Class C SCC

Litigation Trust Beneficiaries (immediately prior to their receipt of their SCC Litigation Trust Interests), including such Claimant, with respect to which such SCC Litigation Trust Beneficiaries received SCC Litigation Trust Interests. For purposes of the calculation contained in the preceding sentence, if a SCC Litigation Trust Beneficiary has transferred his 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 SCC Litigation Trust Interests have been so transferred, the portion of the Allowed Claim corresponding to the portion of SCC Litigation Trust Interests so transferred shall be used). The additional issuance of Class A, Class B, or Class E 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 against the Asbestos Claims Liquidation Trust exceed the Class 4 Claims Estimate, additional Class C SCC Litigation Trust Interests shall be issued to the Asbestos Claims Liquidation Trust such that the Asbestos Claims Liquidation Trust will have received a 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 Claims Liquidation Trust Agreement exceed the Class 4 Claims Estimate after the SCC Litigation Trust has begun making cash distributions on account of such interests, those Allowed Claims in excess of the Class 4 Claims Estimate shall be entitled to receive additional distributions from the SCC Litigation Trust (to be paid through the Asbestos Claims Liquidation 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 Class A and Class B 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.

Promptly filing notice from the Plan Administrator that the Disputed Claim of a Class 6 or Class 7 Claimant becomes an Allowed Claim, such Claimant shall be issued residual SCC Litigation Trust Interests in accordance with the principles set forth in the preceding paragraph.

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.

(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;

(4) fourth, to pay the SCC Litigation Trust Beneficiaries pro rata based on their SCC Litigation Trust Interest holdings in accordance with the Trust Interest Priorities and as set forth herein. Such proceeds shall first be paid to holders of Allowed Amounts of Claims in Class 3 and Class 4, on a Pro Rata basis until such claims are paid in full. Proceeds paid on account of Allowed Amounts of Class 4 Claims shall be paid to the Asbestos Claims Liquidation Trust and thereafter distributed in accordance with the Asbestos Claims Liquidation Trust Documents. After all Class 3 Disputed Claims are resolved and if all holders of Class A, Class B, Class C and Class D SCC Litigation Trust Interests have received the full amount of their Allowed Claims, then the SCC Litigation Trustee shall pay such remaining proceeds in accordance with the Trust Interest Priorities as follows: (a) first to the holders of Allowed Class 6 Claims, on a Pro Rata basis, until such claims are paid in full, (b) second on account of post-petition interest on any Allowed Amounts of Class 3, Class 4 (such Class 4 amounts being distributed to the Asbestos Claims Liquidation Trust) and Class 6 Claims, (c) third on account of Class 7 Claims, on a pro rata basis, until such claims are paid in full and (iv) on account of post-petition interest on any Allowed Amounts of Class 7 Claims; and

(5) fifth, if (a) after all Class 6 and Class 7 Disputed Claims are resolved and (b) all amounts set forth above have been paid in full, then all such remaining proceeds shall be paid to the Asbestos Claims Liquidation Trust to be used in accordance with the Asbestos Claims Liquidation Trust Documents.

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 Asbestos Claims Liquidation Trust to be used in accordance with the Asbestos Claims Liquidation Trust Documents.

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

The SCC Litigation Trust shall terminate on the earlier of: (1) 30 days after the distribution of all of the assets of the SCC Litigation Trust in accordance with the terms of the SCC Litigation Trust Agreement and this Plan; or (2) the fifth (5th) 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 Claims Liquidation TRUST

7.1. Creation of the Asbestos Claims Liquidation Trust. On the Effective Date or such earlier date as the Plan Proponent deems appropriate, the Asbestos Claims Liquidation Trust shall be created as provided in the Asbestos Claims Liquidation Trust Agreement.

7.2. Appointment of Asbestos Claims Liquidation Trustees.

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

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

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

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

7.4. Asbestos Claims Liquidation Trust Board. The initial members of the Asbestos Claims Liquidation Trust Board shall consist of five members initially selected as follows: (i) one selected by the Asbestos Claimants' Committee, (ii) one selected by the FCR, (iii) two selected by the Parent and (iv) one selected by the Plan Sponsor. They shall consult with and advise the Asbestos Claims Liquidation Trustees regarding the administration of the Asbestos Claims Liquidation Trust and the liquidation and resolution of Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims in accordance with the provisions of this Plan and the Asbestos Claims Liquidation Trust Documents.

7.5. Purpose of the Asbestos Claims Liquidation Trust. The purposes of the Asbestos Claims Liquidation Trust shall be to among other things, permit the Asbestos Claims Liquidation Trustee to (a) contest, defend, liquidate, resolve, settle, pay, and/or satisfy all Asbestos Claims in accordance with the provisions of the Plan, the Asbestos Claims Liquidation Trust Agreement, and the Confirmation Order; (b) enforce its rights under the Plan, including (without limitation) its rights as a beneficiary of the Liquidation Trust and the SCC Litigation Trust; (c) receive, preserve, hold, manage, invest and reinvest, and maximize the Asbestos Claims Liquidation Trust Assets for the benefit of Asbestos Claims Liquidation Trust Beneficiaries; (d) take other actions deemed by the Asbestos Claims Liquidation Trustees to be in the best interests of the Asbestos Liquidation Trust Beneficiaries; and (e) ensure that claims are paid in an amount that is

no more than is legally justified, protecting the interests of all of the Asbestos Liquidation Trust Beneficiaries, including those of the Parent, the residual beneficiary of the Asbestos Claims Liquidation Trust. For the avoidance of doubt, the Asbestos Claims Liquidation Trust shall be constituted, maintained, and administered, and its assets disposed of, in a manner that is intended to ensure that claims against the Asbestos Claims Liquidation Trust are appropriately contested, defended, settled and resolved in accordance with and based upon the legal merits of such claims.

7.6. Transfers, Assignments, and Payments to the Asbestos Claims Liquidation Trust. On the Effective Date, the Debtors shall transfer, assign, and pay, without limitation, to the Asbestos Claims Liquidation Trust for the benefit of the Asbestos Claims Liquidation Trust Beneficiaries all of the Debtors' rights, title, and interest in: (a) the Asbestos Claims Liquidation 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 Claims Liquidation Trust Agreement. The Asbestos Claims Liquidation Trust Agreement, substantially in the form of Exhibit 6 to this Plan, contains provisions customary to documents utilized in comparable circumstances.

7.8. Intentionally Omitted.

7.9. Assumption of Liabilities by the Asbestos Claims Liquidation Trust. Upon the occurrence of the Effective Date, in exchange for funding in accordance with Article 10.6 of this Plan, the Asbestos Claims Liquidation 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 Claims Liquidation Trustees shall be responsible for ensuring that the Asbestos Claims Liquidation Trust is administered in accordance with the Asbestos Claims Liquidation Trust Agreement.

7.10. Intentionally Omitted.

7.11. Tax Treatment of the Asbestos Claims Liquidation Trust. The Asbestos Claims Liquidation Trust shall be treated as a "qualified settlement fund" within the meaning of Treasury Regulation section 1.468B-1, the Asbestos Claims Liquidation Trustees shall be the "administrators" of the Asbestos Claims Liquidation Trust pursuant to Treasury Regulation section 1.468B-2(k)(3), and no provision herein or in the Asbestos Claims Liquidation Trust Agreement shall be construed or implemented in a manner that would cause the Asbestos Claims Liquidation Trust to fail to qualify as a "qualified settlement fund." No election shall be made to treat the Asbestos Claims Liquidation Trust as a grantor trust for U.S. federal income tax purposes. Accordingly, the Asbestos Claims Liquidation Trust shall be treated as a taxable entity for federal income tax purposes. The Asbestos Claims Liquidation Trustees shall cause all taxes imposed on the Asbestos Claims Liquidation Trust to be paid using assets of the Asbestos

Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation Trust Expenses. The Asbestos Claims Liquidation Trust shall pay all Asbestos Claims Liquidation Trust Expenses (including applicable taxes) from the assets of the Asbestos Claims Liquidation Trust. Except for the Asbestos Claims Liquidation 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 Claims Liquidation Trust Expenses.

7.13. Asbestos Books.

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

Subject to the conditions set forth herein, the Asbestos Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation Trust with advance notice of any proposed disposition of any of the Asbestos Books and a reasonable opportunity for the Asbestos Claims Liquidation Trust to segregate and remove, at the expense of the Asbestos Claims Liquidation Trust, such Asbestos Books as the Asbestos Claims Liquidation Trust may select.

(e) *Privileged Documents or Communications.*

If the Asbestos Claims Liquidation Trust obtains from Reorganized ASARCO or its representatives any documents or communications (whether electronic, written, or oral) to which any Privilege attaches, the Asbestos Claims Liquidation Trust shall be deemed the Privilege holder for purposes of fulfilling the Asbestos Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation Trust. The Asbestos Claims Liquidation Trust shall terminate automatically on the date that is 90 days after the first to occur of the following events:

(a) The later to occur of (A) the fifty-first (51st) anniversary of the Effective Date and (B) the date on which the Asbestos Claims Liquidation Trustee determines to terminate the Asbestos Claims Liquidation Trust because (1) they deem it unlikely that new asbestos claims will be filed against the Asbestos Claims Liquidation Trust; (2) all Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims duly filed with the Asbestos

(b) Claims Liquidation Trust have been liquidated and paid to the extent provided in the Asbestos Claims Liquidation Trust Agreement 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 Claims Liquidation Trust; or

(c) to the extent that any rule against perpetuities shall be deemed applicable to the Asbestos Claims Liquidation 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 Claims Liquidation Trust dissolve prior to the dissolution of the Liquidation Trust and/or the SCC Litigation Trust.

7.16. Termination of the Asbestos Claims Liquidation Trustees and the Delaware Trustee. The duties, responsibilities, rights, and obligations of the Asbestos Claims Liquidation Trustees and the Delaware Trustee for the Asbestos Claims Liquidation Trust shall terminate in accordance with the terms of the Asbestos Claims Liquidation 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 Claims Liquidation 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 Plan Proponent 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 by the Bankruptcy Court (1) provides that the Plan Sponsor has no liability on account of any existing 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, all conditions precedent to the obligations of all parties in the Plan Sponsor PSA have been satisfied and the Plan Sponsor PSA fails to close the transactions contemplated by the Plan Sponsor PSA after the Confirmation Order has been entered (where the Plan Sponsor's failure to close shall not be the result of any material breach of any covenant or obligation under the Plan Sponsor PSA required to be performed by the Sellers or the inaccuracy of any representation or warranty of the Sellers made under the Plan Sponsor PSA), the Plan Sponsor shall not be liable for any damages in excess of the liquidated damages provided for in the Plan Sponsor 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 sale of the Sold Assets to the Plan Sponsor on the Closing Date has been consummated.

(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) *The Class 4 Claims Estimate.*

Neither the Asbestos Subsidiary Committee nor the FCR has requested an estimation of ASARCO's liability on account of Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims in accordance with Section 10.3 of this Plan or, if such a request has been made, the Bankruptcy Court has entered an order estimating such liability.

(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(d), (h), (i), and (k);

(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(e); and

(c) the Plan Sponsor must consent to any waiver of any of the conditions to effectiveness set forth in Article 9.3(b), (c), (d), (g) 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.

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

10.3. Resolution of Present and Future Asbestos Claims. This Plan contemplates that the amount of the liability of ASARCO on account of Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims shall be estimated at \$500,000,000.00. However, within two (2) business days after entry of the Confirmation Order, the Asbestos Subsidiary Committee and/or the FCR may request that the Bankruptcy Court conduct an evidentiary hearing to establish an alternative to the \$500,000,000.00 estimate.

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 Claims Liquidation Trust Creation and Funding. On or before the Effective Date, the Asbestos Claims Liquidation Trust shall be created. On the Effective Date, the Debtors shall transfer to the Asbestos Claims Liquidation 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 Claims Liquidation Trust.

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

10.8. Prepetition ASARCO Environmental Trust.

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

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

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

10.9. Operations Between the Confirmation Date and the Effective Date. Except as set forth herein with respect to the appointment of the Plan Administrator, during the period from

the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate as debtors in possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all orders of the Bankruptcy Court that are then in full force and effect.

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

10.11. Substantive Consolidation of ASARCO and the 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;
- 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 Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation 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), (h) and (i) 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. Intentionally Omitted.

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 Claims Liquidation Trust and, so long as there are assets in or available to the Asbestos Claims Liquidation 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 Claims Liquidation Trust have been exhausted.

11.4. Intentionally Omitted.

11.5. Reservations. Notwithstanding anything to the contrary above or in this Plan, nothing in this Plan shall enjoin, alter, diminish, or impair:

A. the rights of Entities to the treatment accorded them under Articles II and IV of this Plan, as applicable, including the rights of Entities with Unsecured Asbestos Personal Injury Claims to assert Unsecured Asbestos Personal Injury Claims against the Asbestos Claims Liquidation Trust in accordance with the Asbestos Liquidation Trust Agreement;

B. the rights of Entities to assert any Claim, debt, obligation, or liability for payment of Asbestos Claims Liquidation Trust Expenses against the Asbestos Claims Liquidation 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

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, and 11.3 respectively, shall not serve to satisfy, discharge, release, or enjoin Claims by any Entity against the Asbestos Claims Liquidation Trust for payment of (a) Unsecured Asbestos Personal Injury Claims in accordance with the Asbestos Claims Liquidation Trust Agreement or (b) Asbestos Claims Liquidation 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 the USW shall be liable (other than for criminal liability, willful misconduct, gross negligence, bad faith, or *ultra vires* acts) to any holder of a Claim 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 Claims Liquidation Trust Agreement), 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, provide appropriate proof and assurances of his, her, or its capacity to pay the ASARCO Protected Party's reasonable attorneys' fees and costs in the event the holder or other Entity fails to prevail. In order for a holder of a Claim 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 does not impose any obligation on any ASARCO Protected Party to pay, or provide appropriate proof and financial assurance of his, her, or its capacity to pay, reasonable attorneys' fees and costs in the event that the holder of a Claim 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, Unknown Asbestos Claim, 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, 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, with regard to claims existing as of the Confirmation Date, 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) Neither ASARCO, the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, nor the Asbestos Trust may argue or assert, in any court proceeding, arbitration, ADR-type proceeding, or other dispute involving an Asbestos Insurance Company that is subject to insurance neutrality under the Insurance Neutrality Order and concerning issues related to insurance coverage, that any findings or conclusions concerning 11 U.S.C. § 524(g) or constituting any estimation of asbestos-related liabilities contained in or referenced in any decision, order, finding, conclusion, or judgment of the Bankruptcy Court relating to Confirmation of this Plan: (1) constitutes a "judgment," "adjudication," "final order," "settlement," or "finding of liability" related to, based on, or relying on the principles enunciated in *UNR Indus., Inc. v. Continental Cas. Co.*, 942 F.2d 1101 (7th Cir. 1991) and *Fuller-Austin Insulation Co. v. Fireman's Fund Ins. Co.*, No. BC 116835, 2002 WL 398672 (Cal. Super. Ct. Feb. 26, 2002) and 2002 WL 31005090 (Cal. Super. Ct. Aug. 6, 2002); and (2) is binding upon such an Asbestos Insurance Company for any purpose concerning insurance coverage under any policies issued to the Debtors. Nothing herein shall limit the ability of ASARCO, the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, or the Asbestos Trust to offer this Plan, any of the Plan Documents, the Confirmation Order, or any part of the confirmation process (including, without limitation, any evidentiary hearings or any findings or conclusions therein) in any court, including any court resolving any insurance coverage litigation, as evidence that the Debtors, Reorganized ASARCO, or the Asbestos Trust are so bound.

(c) Nothing in this Plan shall operate to expand the rights of ASARCO, any of the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, or the Asbestos Claims Liquidation 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(e) 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(e) 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(e) 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 Claims Liquidation Trust may offer this Plan, any of the Plan Documents, any of the Confirmation proceedings, or the Confirmation Order as evidence of the reasonableness of a settlement between or among the Debtors, the Committees, and the FCR, the court and the finder of fact in any insurance coverage litigation shall be informed or instructed that such proceedings and the Confirmation Order in the Bankruptcy Court are not binding on such Asbestos Insurance Company and that it is up to the court or the finder of fact in any insurance coverage litigation to make its own independent determination as to the reasonableness of that settlement as to such Asbestos Insurance Company.

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

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

(f) Any of ASARCO, the Asbestos Subsidiary Debtors, the Committees, the FCR, an Asbestos Insurance Company, or the Asbestos Claims Liquidation 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 Claims Liquidation 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 Claims Liquidation Trust in accordance with the Asbestos Claims Liquidation 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. 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 Claims Liquidation 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 cash distributions on account of Allowed Bondholders' Claims shall be made to the appropriate Indenture Trustees and further distributions on account of such Claims by the Indenture Trustees to the recordholders of the Bondholders' Claims shall be accomplished in accordance with the Indentures and the policies and procedures of DTC. Issuances of Liquidation Trust Interests and SCC Litigation Trust Interests shall be made in accordance with the instructions contained in a duly executed letter of transmittal to be delivered to the applicable Trust Registrar in advance of the Effective Date or such other procedure established by the Debtors in consultation with the Indenture Trustees. No distribution of Liquidation Trust Interests or SCC Litigation Trust Interests shall be made without the receipt by the applicable Trust Registrar of a completed letter of transmittal with all required signatures and documents. Pending receipt of such letter of transmittal, any such distributions or issuances shall be held in reserve by the Plan Administrator.

If a distribution is made to the Indenture Trustee, such Indenture Trustee shall administer the distribution in accordance with this Plan and the Indenture and, subject to the requirements of Article 15.13 herein, shall be compensated for all of its services and disbursements related to distributions pursuant to the Plan (and for the related fees and expenses

of any counsel or professional engaged by the Indenture Trustee with respect to administering or implementing such distributions), by the Debtors, Reorganized ASARCO, or the Plan Administrator, as appropriate, in the ordinary course upon the presentation of invoices by such Indenture Trustee. Subject to the procedures set forth in Article 15.13 of the Plan, the compensation of the Indenture Trustees for services relating to distributions under the 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 Claims Liquidation Trust.*

Any Cash, assets, or other property to be distributed under this Plan by the Asbestos Claims Liquidation 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 Claims Liquidation Trust for use in accordance with the terms of the Asbestos Claims Liquidation Trust Agreement.

(b) *Distributions by the Plan Administrator.*

(1) If the distribution to any holder of an Allowed Claim (other than the holder of an Unsecured Asbestos Personal Injury Claim or Demand) is returned to Reorganized ASARCO or the Plan Administrator as undeliverable or is otherwise unclaimed (including by a Claimant's failure to draw upon a check issued to such Claimant), no further distributions shall be made to such holder unless the Plan Administrator is timely notified in writing of the holder's then current address, at which time all missed distributions shall be made to such holder without interest. Amounts in respect of any undeliverable or unclaimed distributions shall be returned to the Plan Administrator until such distributions are claimed. The Plan Administrator shall segregate and deposit into the Undeliverable and Unclaimed Distribution Reserve all undeliverable or unclaimed distributions for the benefit of all such similarly situated Persons until such time as a distribution becomes deliverable or is claimed or such Claimant's right to the distribution is waived pursuant to Article 13.4(b)(2) below. Nothing contained in this Plan shall require Reorganized ASARCO or the Plan Administrator to attempt to locate any holder of an Allowed Claim.

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

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

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

such holder or right of setoff or recoupment that the Estates may have against the holder of such Allowed Claim.

13.7. No Distribution Pending Allowance. If a Claim or any portion of a Claim is disputed, no payment or distribution shall be made on account of the disputed portion of such Claim (or the entire Claim, if the entire Claim is disputed), unless such Disputed Claim becomes an Allowed Claim.

13.8. Disputed Claims Reserve.

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

(b) On the Effective Date (or as soon thereafter as is reasonably practicable), ASARCO, Reorganized ASARCO, or the Plan Administrator, as the case may be, shall deposit in the Disputed Claims Reserve the Cash 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 Claims Liquidation 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. 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 and the Asbestos Claims Liquidation Trust Agreement. 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.

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

14.2. Objection Deadline. Within the later of (a) 90 days after the Effective Date or (b) 90 days after a Proof of Claim is filed, objections to Claims (other than Unsecured Asbestos Personal Injury Claims and Unknown Asbestos Claims, which shall be Allowed or disallowed as provided in the Asbestos Claims Liquidation Agreement) 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 Claims Liquidation 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 Claims Liquidation Trust and the Environmental Custodial Trusts. The Asbestos Claims Liquidation Trust and the Environmental Custodial Trusts (including each of the Environmental Custodial Trust Accounts) shall be subject to the continuing jurisdiction of the Bankruptcy Court sufficient to satisfy the requirements of Treasury Regulation section 1.468B-1.

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

- (a) modify this Plan after entry of the Confirmation Order, pursuant to the provisions of this Plan, the Bankruptcy Code, and the Bankruptcy Rules;
- (b) correct any defect, cure any omission, reconcile any inconsistency, or make any other necessary changes or modifications in or to this Plan, the Plan Documents, or the Confirmation Order as may be necessary to carry out the purposes and intent of this Plan;
- (c) hear and determine any cause of action, and enter and implement such orders as may be necessary or appropriate, to execute, interpret, implement, consummate, or enforce this Plan, the Plan Documents, and the transactions contemplated thereunder;
- (d) hear and determine disputes arising in connection with the execution, interpretation, implementation, Consummation, or enforcement of this Plan, including, without limitation, the Plan Documents, and to enforce, including by specific performance, the provisions of this Plan and the Plan Documents;
- (e) hear and determine disputes arising under settlement agreements previously approved by the Bankruptcy Court, including, without limitation, the Environmental Custodial Trust Settlement Agreements, the Miscellaneous Federal and State Environmental Settlement Agreement, and the Residual Environmental Settlement Agreement;
- (f) hear and determine disputes arising in connection with the execution, interpretation, implementation, consummation, or enforcement of the Plan Sponsor PSA, settlement agreements, asset purchase agreements, or other agreements entered into by the Debtors during the Reorganization Cases, or to enforce, including by specific performance, the provisions of such agreements;
- (g) enter and implement orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the Consummation or implementation of this Plan, including, without limitation, to issue, administer, and enforce injunctions, releases, assignments, transfers of property or property rights, or other obligations contained in this Plan and the Confirmation Order;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15.4. 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 Claims Liquidation 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 after such date, together with such detail as may be reasonably requested by the Debtors, the Debtors or Reorganized ASARCO, as appropriate, shall pay, on the Effective Date, the Indenture Trustee Fee Claims, in full, in Cash. Notwithstanding the foregoing, to the extent that the Debtors dispute any portion of the Indenture Trustee Fee Claims, prior to the Effective Date the Debtors shall file with the Bankruptcy Court and serve on the

appropriate Indenture Trustee an objection to such Indenture Trustee Fee Claim stating with specificity the Debtors' objections to such Indenture Trustee Fee Claim. On the Effective Date, the Debtors or Reorganized ASARCO, as appropriate, shall reserve an amount equal to the amount of disputed Indenture Trustee Fee Claims and such dispute shall be consensually resolved by the parties or presented to the Bankruptcy Court for adjudication. The Indenture Trustees reserve the right to assert whatever fees and expenses they believe should be Allowed as Indenture Trustee Fee Claims, and the Debtors and Reorganized ASARCO reserve the right to object to any such amounts on any applicable grounds.

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

15.14. 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. The Debtors, Reorganized ASARCO, the Plan Administrator, the Trustees, the Trusts, the Asbestos Claims Liquidation Trust Board, 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, and the Confirmation Order.

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

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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 21, 2009

Respectfully submitted,

HARBINGER CAPITAL PARTNERS

MASTER FUND I, LTD.

By: _____

Name:

Title:

EXHIBIT C
TO THE DISCLOSURE STATEMENT

Disclosure Order

[without exhibits]



ENTERED
07/02/2009

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

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

**ORDER APPROVING THE JOINT DISCLOSURE STATEMENT AND
GRANTING THE DEBTORS' MOTION TO ESTABLISH CERTAIN
PROCEDURES RELATED TO SOLICITATION OF THE DEBTORS', PARENT'S,
AND HARBINGER PLANS OF REORGANIZATION**

A hearing was held on June 30, 2009 and July 2, 2009 to consider approval of the adequacy of the "*Joint Disclosure Statement in Support of the Respective Plans of Reorganization Proposed by (1) the Debtors; (2) ASARCO Incorporated and Americas Mining Corporation; and (3) Harbinger Capital Partners Master Fund I, Ltd.*" (including all respective amendments, exhibits, and supplements, the "Joint Disclosure Statement"), respectively and the motion (the "Motion") of ASARCO LLC and certain of its related companies¹ (each a "Debtor" and collectively, the "Debtors" or "ASARCO") for entry of an order (a) establishing a Voting Record Date²; (b) establishing procedures for solicitation of votes on the Plans, and notice procedures related thereto; (c) establishing procedures for the tabulation of votes on the Plans (together with the procedures for solicitation, the "Solicitation and Tabulation Procedures") and approving the form of ballots to be used in connection therewith and instructions for voting on

¹ The related debtor entities include Lac d'Amiante du Québec Ltée; 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.

² All capitalized terms used, but not defined herein, shall have the meaning attributed to such terms in the Solicitation and Tabulation Procedures attached hereto as Exhibit A.

the Plans (the “Joint Voting Instructions”); (d) approving, except as to Allottees, the form and manner of notice and objection procedures relating to confirmation; and (e) approving, as to Allottees, the form and manner of notice and objection procedures relating to confirmation; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L); and it appearing that venue of this proceeding and the Motion are proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion and the hearing thereon having been given; and based upon the Joint Disclosure Statement, the exhibits annexed thereto, the arguments presented, and the record of the proceedings had at the hearing; and any of the objections filed with respect to the matters considered at the hearing having been withdrawn, resolved, or overruled by the Court or rendered moot and after due deliberation, good, and sufficient cause appearing therefore, it is hereby

ORDERED that the Joint Disclosure Statement contains adequate information within the meaning of section 1125 of the Bankruptcy Code and are approved in all respects.

ORDERED that pursuant to Bankruptcy Rule 3017(d), the Voting Record Date for purposes of determining (a) the holders of Claims that are entitled to receive the Solicitation Package pursuant to the Solicitation and Tabulation Procedures and (b) holders of Claims that are entitled to vote to accept or reject the Plans shall be **July 2, 2009**, the date this Order is entered.

ORDERED that the Solicitation and Tabulation Procedures in the form attached hereto as Exhibit A provide for a fair and equitable voting process and are consistent with Section 1126 of the Bankruptcy Code and the Bankruptcy Rules, are hereby approved and

incorporated herein, and shall be used in connection with distribution of solicitation materials and tabulation of acceptances and rejections of the Plans.

ORDERED that the form of Ballots and Master Ballots (Exhibits B-1 through B-23) are sufficiently consistent with Official Form No. 14, adequately address the particular needs of these chapter 11 cases, are appropriate for each class of Claims entitled to vote to accept or reject the Plans, and are approved. The appropriate Ballots and Master Ballots shall be distributed to holders of Claims entitled to vote to accept or reject the Plans.

ORDERED that to be counted as votes to accept or reject the Plans, all Ballots and Master Ballots must be properly executed in accordance with the procedures set forth in the Solicitation and Tabulation Procedures and shall be received by the Balloting Agent no later than a Voting Deadline of **August 5, 2009 at 4:00 p.m. (prevailing Central time)**.

ORDERED that the procedures for distribution of the Solicitation Packages, as set forth in the Solicitation and Tabulation Procedures, comply with Bankruptcy Rule 3017(d) and, notwithstanding the language of Bankruptcy Rule 2002(b), constitute adequate notice to parties entitled to vote on the Plans, including the Bondholder Claimants and Asbestos Personal Injury Claimants and shall be used in connection with solicitation. The Solicitation Packages shall be distributed by the Debtors, through their Balloting Agent, no more than five days after (i) entry of this Order and (ii) the Balloting Agent receives the Plans and the Court-approved Joint Disclosure Statement. In lieu of serving a paper copy of the Joint Disclosure Statement and the Plans, the Debtors, through their Balloting Agent, may, in their discretion, include in the Solicitation Package a CD-ROM of the Joint Disclosure Statement and Plans.

ORDERED that the Debtors shall be excused from re-mailing any Solicitation Packages and Confirmation Hearing Notices that are sent to holders of Claims and returned as

undeliverable, unless the Debtors, through their Balloting Agent, have been informed in writing by such holder of that holder's new address not less than fifteen Business Days prior to the Solicitation Date.

ORDERED that the Joint Voting Instructions in the form attached hereto as Exhibit C are approved, and shall be attached to all Ballots and Master Ballots (except individual Ballots for Asbestos Personal Injury Claims who will receive separate voting instructions) and be used in connection with the solicitation of votes on the Plans.

ORDERED that holders of unliquidated Asbestos Personal Injury Claims are required to indicate their disease type by checking the appropriate box on the Ballot provided to such holder. The Balloting Agent shall assign, for voting and tabulation purposes only, values for each disease category consistent with the Solicitation and Tabulation Procedures.

ORDERED that the procedures for tabulating the Asbestos Personal Injury Claims and Environmental Claims as set forth in the Solicitation and Tabulation Procedures are hereby approved and incorporated herein, and shall be used solely for the purpose of voting on the Plans and not for the purpose of allowance of or distribution on account of a Claim or Interest.

ORDERED that if any defendant in an adversary proceeding or holder of a Claim or Interest seeks to challenge the allowance of its Claim or Interest for voting purposes in accordance with the Solicitation and Tabulation Procedures, such defendant or holder of a Claim or Interest must serve on the Debtors, the Parent, and Harbinger and file with the Bankruptcy Court a motion for an order pursuant to Bankruptcy Rule 3018(a) temporarily allowing such Claim in another amount for purposes of voting to accept or reject the Plans on or before the **tenth day after the later of (a) service of the Confirmation Hearing Notice or (b) service of**

notice of an objection, if any, to such Claim. In considering such Rule 3018(a) motion, the Court may take into account whether consideration of such motion(s) will unduly delay the confirmation process. As to any creditor or defendant filing such a motion, such entity's Ballot shall not be counted in an amount other than that provided by the Solicitation and Tabulation Procedures unless temporarily Allowed by the Bankruptcy Court in another amount for voting purposes.

ORDERED that pursuant to Bankruptcy Rule 3020(b)(1), **July 29, 2009 at 4:00 p.m. (prevailing Central time)** (the "Objection Deadline") shall be the last day and time for filing and serving written objections (including any supporting memoranda) to confirmation of any of the Plans, and any previous deadline to object to the Debtors' Plan ordered by this Court is hereby vacated. Any objections to confirmation of any of the Plans must be in writing, conform to the Bankruptcy Rules, state the name of the objecting party, identify the nature of Claims or Interests held or asserted by the objecting party against the Debtors' Estates or property, shall state the basis for the objection and the specific grounds therefore and must be filed with the United States Bankruptcy Clerk's Office, 1133 North Shoreline Boulevard, Second Floor, Corpus Christi, Texas 78401, by the Objection Deadline, and must be served on the following parties at the following addresses, via mail or e-mail, so as to be actually received by that date and time (provided that notice through the Court's electronic filing system shall be sufficient): (1) Jack L. Kinzie, Judith Ross, James R. Prince, Baker Botts L.L.P., 2001 Ross Avenue, Dallas, Texas 75201-2980, jack.kinzie@bakerbotts.com, judith.ross@bakerbotts.com, jim.prince@bakerbotts.com; (2) Tony M. Davis, Mary Millwood Gregory, Baker Botts L.L.P., One Shell Plaza, 910 Louisiana, Houston, Texas 77002-4995, tony.davis@bakerbotts.com, mary.gregory@bakerbotts.com; (3) Shelby A. Jordan, Jordan, Hyden, Womble, Culbreth, &

Holzer, P.C., Suite 900, Bank of America, 500 North Shoreline, Corpus Christi, Texas 78471, sjordan@jhwclaw.com; (4) Robert Moore, Milbank Tweed, Hadley & McCloy LLP, 601 South Figueroa Street, 30th Floor, Los Angeles, CA 90017, RMoore@milbank.com; (5) Robert E. Winter, Milbank, Tweed, Hadley & McCloy LLP, 1850 K Street, NW, Suite 1100, Washington, DC 20006, RWinter@milbank.com; (6) Charles A. Beckham, Jr., Trey Monsour, Haynes and Boone LLP, 1 Houston Center, 1221 McKinney, Suite 2100, Houston, Texas 77010, charles.beckham@haynesboone.com, trey.monsour@haynesboone.com; (7) Paul M. Singer, Reed Smith LLP, 435 Sixth Avenue, Pittsburg, PA 15219, psinger@reedsmith.com; (8) Derek J. Baker, Reed Smith LLP, 2500 One Liberty Place, Philadelphia, PA 19103, dbaker@reedsmith.com; (9) James C. McCarroll, Reed Smith LLP, 599 Lexington Avenue, New York, NY 10022, jmccarroll@reedsmith.com; (10) Sander L. Esserman, Jacob Newton, Stutzman, Bromberg, Esserman & Plifka, 2323 Bryan Street, Suite 2200, Dallas, TX 75201-2689, esserman@sbep-law.com; newton@sbep-law.com; (11) John H. Tate, II, Raymond W. Battaglia, Debra L. Innocenti, Oppenheimer, Blend, Harrison & Tate, Inc., 711 Navarro, Sixth Floor, San Antonio, TX 78205, jtate@obht.com, rbattaglia@obht.com, dinnocenti@obht.com; (12) David Dain, Alan Tenenbaum, Department of Justice, Environmental Enforcement Section, 601 D Street NW, Washington, DC 20004 (if mailed, overnight mail only), david.dain@usdoj.gov, alan.tenenbaum@usdoj.gov; (13) Douglas P. Bartner, Randall L. Martin, Shearman & Sterling LLP, 599 Lexington Avenue, New York, New York 10022, dbartner@shearman.com, randy.martin@shearman.com; (14) Richard M. Seltzer, Cohen, Weiss and Simon LLP, 330 West 42nd Street, New York, NY 10025, rseltzer@cwsny.com; (15) Charles R. Sterbach, Asst. United States Trustee, U. S. Dept. of Justice, 606 N. Carancahua St., Ste. 1107, Corpus Christi, TX 78476, charles.r.sterbach@usdoj.gov; (16) Thomas M. Mayer,

Gregory A. Horowitz, Kramer, Levin, Naftalis, & Frankel LLP, 1177 Avenue of the Americas, New York, NY 10036, tmayer@kramerlevin.com, ghorowitz@kramerlevin.com; and (17) Phillip L. Lamberson, J. Frasher Murphy, 5400 Renaissance Tower, 1201 Elm Street, Dallas, TX 75270, plamberson@winstead.com, fmurphy@winstead.com. **ANY OBJECTIONS NOT FILED AND SERVED AS SET FORTH ABOVE SHALL BE DEEMED WAIVED.**

ORDERED that pursuant to Bankruptcy Rules 2002(d) and 3017(d), and notwithstanding the express language of Bankruptcy Rule 2002(b), the form of Confirmation Hearing Notice attached hereto as Exhibit D, the form of Asbestos Publication Notice attached hereto as Exhibit E, and the mailing and publication procedures related to the Confirmation Hearing Notice and Asbestos Publication Notice are hereby approved in all respects and deemed good, adequate, and sufficient notice of the Confirmation Hearing and the other items contained therein and are incorporated herein.

ORDERED that the form of noticing procedure to the Allottees, the form of Mission Mine Confirmation Notice attached hereto as Exhibit F, and the Mission Mine radio notice attached hereto as Exhibit G are fair and reasonable in all respects under the Bankruptcy Code and Bankruptcy Rules and no other notice or document need be transmitted to the Allottees, including, but not limited to the exhibits to the Mission Mine Settlement Agreement, unless an Allottee requests a copy in writing to the Balloting Agent.

ORDERED that the service of Solicitation Packages and other notices and documents described herein and in the Solicitation and Tabulation Procedures and Joint Voting Instructions and in the time and manner as set forth in this Order and in the Solicitation and Tabulation Procedures and Voting Instructions shall be adequate and sufficient and no further notice is necessary.

ORDERED that the Balloting Agent shall file with the Court, within five Business days after the Voting Deadline, a Voting Report.

ORDERED that with respect to any report (including any interim or draft report) related to the Solicitation and Tabulation Procedures that is provided by the Balloting Agent to any of the Debtors, the Parent or Harbinger, the Balloting Agent shall ensure that such report is simultaneously provided to the Debtors, the Parent, and Harbinger. The Balloting Agent shall provide each of the Debtors, the Parent, and Harbinger equal access to all information relating to the Solicitation and Tabulation Procedures and each of the Debtors, the Parent, and Harbinger shall have the right to request, at any time, interim reports from the Balloting Agent.

ORDERED that the Debtors are authorized to take or refrain from taking any action necessary or appropriate to implement the terms of and the relief granted in this Order without seeking further order of the Court.

ORDERED that the Debtors are authorized to make non-substantive changes to the Debtors' Plan, the Parent is authorized to make non-substantive changes to the Parent's Plan, and Harbinger is authorized to make non-substantive changes to the Harbinger Plan. Furthermore, the Debtors, in consultation with the Parent and Harbinger, are authorized to make non-substantive changes to the Joint Disclosure Statement, Ballots, Master Ballots, Confirmation Hearing Notice, Solicitation and Tabulation Procedures, and related documents without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes prior to their distribution.

ORDERED that the Balloting Agent and the Debtors are authorized and directed to take such steps and perform such acts as may be necessary to implement and effectuate this Order.

ORDERED that the Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: July 2, 2009

A handwritten signature in black ink, appearing to read "Richard S. Schmidt", written in a cursive style.

THE HONORABLE RICHARD S. SCHMIDT
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT D
TO THE DISCLOSURE STATEMENT

Debtors' Selected Historical Financial Information

ASARCO LLC
(Debtor-in-Possession)
Unaudited
Consolidated Statements of Income
(\$ in Thousands)

	For the Quarter Ended March 31, 2009	For the Year Ended December 31, 2008	For the Year Ended December 31, 2007	For the Year Ended December 31, 2006	For the Year Ended December 31, 2005
Sales of products and services	\$ 222,020	\$ 1,861,480	\$ 1,850,424	\$ 1,471,504	\$ 536,457
Operating expenses					
Costs of products and services	162,558	1,308,740	1,146,403	802,659	388,785
Depreciation and depletion	11,148	44,356	41,272	31,383	43,955
Accretion of long-lived assets	365	4,065	6,174	4,289	3,244
Selling and general administrative expenses	6,494	37,336	42,813	37,887	35,998
Exploration and research expense	37	1,951	1,290	282	354
Environmental, closed and standby plant charges	1,927	16,497	16,449	9,861	2,533,942
Total operating expenses	182,528	1,412,945	1,254,402	886,361	3,006,278
Operating income (loss)	39,492	448,535	596,022	585,144	(2,469,821)
Interest expense	(143)	(537)	(1,437)	(1,403)	(24,440)
Interest income	1,415	4,405	5,667	6,581	8,071
Other income and (expense), net	4,318	36,347	7,657	20,868	593
Income (loss) from continuing operations before reorganization items, minority interests, equity earnings in affiliated companies and taxes	45,082	488,750	607,909	611,190	(2,485,598)
Reorganization expenses	(10,673)	(70,817)	(68,582)	(32,031)	(6,349)
Loss on fair value adjustment	-	-	(548)	(448)	(66,702)
Minority interest in consolidated subsidiaries	(1,443)	(22,067)	(24,530)	(25,313)	(10,769)
Provision for income taxes	(12,944)	(155,431)	(197,937)	(20,040)	(307)
Income (loss) before discontinued operations	20,022	240,436	316,313	533,877	(2,610,450)
Discontinued operations					
(Loss) from operations of discontinued component	(406)	(2,563)	(2,051)	(1,950)	(5,641)
Gain on disposal of discontinued operations	-	-	205	77,127	6,344
Income tax benefit (expense)	165	1,069	766	(3,144)	0
Gain (loss) from discontinued operations - net of tax effect	(242)	(1,494)	(1,081)	72,033	703
Net Income (Loss)	\$ 19,780	\$ 238,942	\$ 315,232	\$ 605,910	\$ (2,609,748)

Basis of Presentation: The Company currently prepares its financial statements and related schedules in accordance with the requirements of generally accepted accounting principles in the United States ("GAAP"). However, these financial statements are Unaudited and do not contain footnote disclosures required by GAAP or normal year-end adjustments. While our management believes that these financial statements reflect all adjustments necessary for a fair presentation thereof, there is a possibility that additional adjustments would result from an audit.

In addition, our internal accounting controls do not currently meet all standards applicable to companies with publicly traded securities. Effective internal controls are necessary for a company to provide reliable financial information and limit the risk of fraud and material misstatement in its financial statements. While the Company is not a public company and is not required to comply with the requirements of the Sarbanes-Oxley Act of 2002, the Company is nevertheless working to develop and implement appropriate and effective internal controls. Any failure to develop or maintain such controls, or difficulties encountered in their implementation or other effective improvement of our existing internal controls, could harm our operating results or result in our producing financial statements that are not free of material misstatements.

ASARCO LLC
(Debtor-in-Possession)
Unaudited
Consolidated Balance Sheets

(\$ in Thousands)

	March 31, 2009	December 31, 2008	December 31, 2007	December 31, 2006	December 31, 2005
ASSETS					
Current Assets:					
Cash and cash equivalents	\$ 1,311,059	\$ 1,321,039	\$ 911,769	\$ 503,528	\$ 11,034
Marketable Securities.....	180	166	26,968	29,722	21,926
Accounts receivable, less allowance	60,373	59,215	87,158	76,873	47,953
Accounts receivable - related parties	36,496	35,755	36,540	36,742	35,502
Inventories and supplies	253,992	213,708	315,500	244,523	162,894
Other current assets	30,660	30,444	35,990	33,765	57,564
Current assets	<u>1,692,761</u>	<u>1,660,327</u>	<u>1,413,926</u>	<u>928,239</u>	<u>336,873</u>
Restricted cash	26,120	24,958	29,759	40,615	5,237
Investments and long-term receivables	642	716	1,874	1,525	802
Related parties notes receivable	12,500	12,500	42,607	58,733	73,596
Property, plant and equipment, net	559,748	555,142	504,735	436,024	461,546
Other assets and deferred costs	24,819	31,359	52,094	34,195	112,754
Other assets	<u>623,829</u>	<u>624,675</u>	<u>631,070</u>	<u>571,091</u>	<u>653,935</u>
Total assets	<u>\$ 2,316,590</u>	<u>\$ 2,285,002</u>	<u>\$ 2,044,996</u>	<u>\$ 1,499,330</u>	<u>\$ 990,808</u>
LIABILITIES					
Liabilities not subject to compromise					
Current liabilities:					
Accounts payable	\$ 61,276	\$ 68,147	\$ 56,629	\$ 61,522	\$ 16,976
Salaries and wages	8,543	9,998	14,652	10,070	8,397
Taxes payable	403,366	390,586	236,225	30,328	2,355
Environmental remediation obligations, current	279,910	281,882	80,174	31,670	47,375
Other current liabilities and accruals	39,637	33,604	62,702	20,698	4,959
Current liabilities	<u>792,731</u>	<u>784,218</u>	<u>450,383</u>	<u>154,288</u>	<u>80,061</u>
Asset retirement obligations	27,189	26,838	66,577	60,459	55,093
Capital lease obligations	2,505	2,629	2,810	490	773
Pension obligations	172,866	175,759	42,323	69,634	151,774
Postretirement benefit obligations	240,706	236,015	220,453	235,880	102,896
Environmental remediation obligations, less current portion	0	0	281,882	362,056	393,726
Other liabilities and reserves	14,537	14,671	2,828	2,644	3,320
Liabilities not subject to compromise	<u>1,250,535</u>	<u>1,240,131</u>	<u>1,067,256</u>	<u>885,452</u>	<u>787,643</u>
Liabilities subject to compromise	<u>2,816,729</u>	<u>2,816,729</u>	<u>2,816,729</u>	<u>2,816,729</u>	<u>2,816,729</u>
Total Liabilities	<u>4,067,264</u>	<u>4,056,859</u>	<u>3,883,985</u>	<u>3,702,181</u>	<u>3,604,371</u>
Minority Interests	15,195	13,665	11,979	10,349	8,810
MEMBER'S EQUITY					
Additional paid-in-capital	612,903	612,903	612,903	612,903	612,903
Accumulated deficit	(1,992,448)	(2,012,111)	(2,251,052)	(2,565,369)	(3,106,618)
Accumulated other comprehensive loss	(386,324)	(386,314)	(212,819)	(260,732)	(128,658)
Total member's equity	<u>(1,765,869)</u>	<u>(1,785,522)</u>	<u>(1,850,968)</u>	<u>(2,213,199)</u>	<u>(2,622,374)</u>
Total Liabilities and Member's Equity	<u>\$ 2,316,590</u>	<u>\$ 2,285,002</u>	<u>\$ 2,044,996</u>	<u>\$ 1,499,330</u>	<u>\$ 990,808</u>

Basis of Presentation: The Company currently prepares its financial statements and related schedules in accordance with the requirements of generally accepted accounting principles in the United States ("GAAP"). However, these financial statements are Unaudited and do not contain footnote disclosures required by GAAP or normal year-end adjustments. While our management believes that these financial statements reflect all adjustments necessary for a fair presentation thereof, there is a possibility that additional adjustments would result from an audit.

In addition, our internal accounting controls do not currently meet all standards applicable to companies with publicly traded securities. Effective internal controls are necessary for a company to provide reliable financial information and limit the risk of fraud and material misstatement in its financial statements. While the Company is not a public company and is not required to comply with the requirements of the Sarbanes-Oxley Act of 2002, the Company is nevertheless working to develop and implement appropriate and effective internal controls. Any failure to develop or maintain such controls, or difficulties encountered in their implementation or other effective improvement of our existing internal controls, could harm our operating results or result in our producing financial statements that are not free of material misstatements.

ASARCO LLC
(Debtor-in-Possession)
Unaudited
Statements of Cash Flows
(\$ in Thousands)

	For the Quarter Ended March 31, 2009	For the Year Ended December 31, 2008	For the Year Ended December 31, 2007	For the Year Ended December 31, 2006	For the Year Ended December 31, 2005
Operating Activities					
Net income (loss)	\$ 19,780	\$ 238,942	\$ 315,232	\$ 605,910	\$ (2,609,748)
Adjustments to reconcile net income (loss) to net cash provided by operating activities					
Depreciation & amortization	11,148	44,356	41,272	31,383	43,955
Accretion expense	365	4,065	6,174	4,289	3,826
(Gain)/Loss on sale of assets	-	-	(225)	-	-
Minority interests	1,443	22,067	24,530	25,313	10,769
Loss on disposition of discontinued operations	-	-	-	-	(703)
Changes in environmental reserves	4,553	(73,135)	(31,670)	(44,731)	2,466,332
Changes in bankruptcy reserves	-	-	-	-	275,310
Changes in pension plan	1,798	(1,933)	20,340	(19,928)	22,691
Changes in current assets and liabilities:					
Accounts receivable	(1,899)	28,728	(10,083)	(30,161)	(20,766)
Inventories and supplies	(40,285)	101,793	(70,977)	(81,630)	12,322
Current taxes payable	12,780	154,362	197,172	27,973	307
Other current assets	(216)	(2,693)	(2,225)	-	-
Accounts payable and other accruals	(8,326)	6,864	(10,179)	47,298	(131,784)
Other changes in current assets & liabilities	(2,402)	(15,225)	50,896	39,695	(910)
Net cash provided by operating activities	(1,261)	508,189	530,257	605,413	71,601
Investing Activities					
Acquisition of property, plant & equip	(7,400)	(96,839)	(116,193)	(70,777)	(52,173)
Proceeds from asset dispositions	-	-	-	11,116	44,846
Unrealized (Loss) on Investment in Securities	-	-	-	8,160	900
Environmental trust activity	-	-	-	-	(55,409)
Other investing activities	50	13,636	632	85,000	(71,503)
Net cash provided by (used in) investing activities	(7,350)	(83,203)	(115,561)	33,499	(133,339)
Financing Activities					
Payments on LTD	(294)	(136)	(283)	(283)	(20,202)
Payments to minority interests	87	(20,381)	(22,900)	(23,775)	(11,190)
Other financing activities	-	-	2,787	-	-
Net cash used in financing activities	(207)	(20,517)	(20,396)	(24,058)	(31,392)
Increase (decrease) in cash and cash equivalents	(8,818)	404,469	394,300	530,957	(9,139)
Cash and cash equivalents at beginning of year	1,345,997	941,528	547,228	16,271	25,410
Cash and cash equivalents at end of year	\$ 1,337,179	\$ 1,345,997	\$ 941,528	\$ 547,228	\$ 16,271

Basis of Presentation: The Company currently prepares its financial statements and related schedules in accordance with the requirements of generally accepted accounting principles in the United States ("GAAP"). However, these financial statements are Unaudited and do not contain footnote disclosures required by GAAP or normal year-end adjustments. While our management believes that these financial statements reflect all adjustments necessary for a fair presentation thereof, there is a possibility that additional adjustments would result from an audit.

In addition, our internal accounting controls do not currently meet all standards applicable to companies with publicly traded securities. Effective internal controls are necessary for a company to provide reliable financial information and limit the risk of fraud and material misstatement in its financial statements. While the Company is not a public company and is not required to comply with the requirements of the Sarbanes-Oxley Act of 2002, the Company is nevertheless working to develop and implement appropriate and effective internal controls. Any failure to develop or maintain such controls, or difficulties encountered in their implementation or other effective improvement of our existing internal controls, could harm our operating results or result in our producing financial statements that are not free of material misstatements.

ASARCO LLC
(Debtor-in-Possession)
Unaudited

Consolidated Statements of Member's Equity and Comprehensive Income

(\$ in Thousands)

	Additional Paid-in Capital	Accumulated Deficit	Accumulated other Comprehensive Loss	Member's Equity
Balance at January 1, 2005	\$ 612,903	\$ (479,793)	\$ (122,572)	\$ 10,538
Comprehensive income (loss)				
Net Income (loss)		(2,609,748)		(2,609,748)
Change in Accounting Margin to Cost		(21,595)		(21,595)
Correction for Accounting Error		(3,584)		(3,584)
Deconsolidation of Encycle Texas Inc		2,572		2,572
Change in Silver Bell Minority Interest				
Reclass of Met Life Shares		5,529	(5,529)	
Other comprehensive Income (loss)				
Unrealized gain (loss) on securities			21,008	21,008
Additional minimum pension liability			(21,565)	(21,565)
Post retirement benefit liability			-	-
Other comprehensive Income (loss)			(6,086)	(6,086)
Comprehensive income (loss)				(2,615,834)
Balance at December 31, 2005	612,903	(3,106,618)	(128,658)	(2,622,374)
Comprehensive income (loss)				
Net Income		605,910		605,910
Change in Accounting Capital Stripping		(64,254)		(64,254)
Change in Silver Bell Minority Interest				
East Helena Abandonment		(407)		(407)
Other comprehensive Income (loss)				
Unrealized gain on securities			8,160	8,160
Additional minimum pension liability			(736)	(736)
Post retirement benefit liability			(139,498)	(139,498)
Other comprehensive Income (loss)			(132,074)	(132,074)
Comprehensive income (loss)				(2,213,198)
Balance at December 31, 2006	612,903	(2,565,369)	(260,732)	(2,213,199)
Comprehensive income				
Net Income		315,232		315,232
Accounting Adjustments		(915)		(915)
Other comprehensive Income (loss)				
Unrealized (loss) on securities			(2,041)	(2,041)
Additional minimum pension liability			22,689	22,689
Post retirement benefit liability			27,265	27,265
Other comprehensive Income			47,913	47,913
Comprehensive income				362,230
Balance at December 31, 2007	612,903	(2,251,052)	(212,819)	(1,850,969)
Comprehensive income (loss)				
Net Income		238,942		238,942
Other comprehensive Income (loss)				
Unrealized (loss) on securities			(22,563)	(22,563)
Additional minimum pension liability			(150,932)	(150,932)
Other comprehensive Income (loss)			(173,495)	(173,495)
Comprehensive income				65,446
Balance at December 31, 2008	\$ 612,903	\$ (2,012,111)	\$ (386,314)	\$ (1,785,523)
Comprehensive income (loss)				
Net Income		19,780		19,780
Accounting Adjustments		(117)		(117)
Other comprehensive Income (loss)				
Unrealized (loss) on securities			(10)	(10)
Additional minimum pension liability			-	-
Other comprehensive Income (loss)			(10)	(10)
Comprehensive income				19,770
Balance at March 31, 2009	\$ 612,903	\$ (1,992,448)	\$ (386,324)	\$ (1,765,869)

Basis of Presentation: The Company currently prepares its financial statements and related schedules in accordance with the requirements of generally accepted accounting principles in the United States ("GAAP"). However, these financial statements are Unaudited and do not contain footnote disclosures required by GAAP or normal year-end adjustments. While our management believes that these financial statements reflect all adjustments necessary for a fair presentation thereof, there is a possibility that additional adjustments would result from an audit.

In addition, our internal accounting controls do not currently meet all standards applicable to companies with publicly traded securities. Effective internal controls are necessary for a company to provide reliable financial information and limit the risk of fraud and material misstatement in its financial statements. While the Company is not a public company and is not required to comply with the requirements of the Sarbanes-Oxley Act of 2002, the Company is nevertheless working to develop and implement appropriate and effective internal controls. Any failure to develop or maintain such controls, or difficulties encountered in their implementation or other effective improvement of our existing internal controls, could harm our operating results or result in our producing financial statements that are not free of material misstatements.

EXHIBIT E
TO THE DISCLOSURE STATEMENT

Debtors' Liquidation Analysis

**ASARCO LLC, ET AL.
LIQUIDATION ANALYSIS
(Updated June 26, 2009)**

OVERVIEW

Section 1129(a)(7) of the Bankruptcy Code requires that each holder of an impaired Allowed Claim or interest either (i) accepts the Plan or (ii) receives or retains under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive or retain if the debtors were liquidated under chapter 7 of the Bankruptcy Code on the Effective Date of the Plan. The first step in meeting this test is to determine the dollar amount that would be generated from a hypothetical liquidation of the assets of the Debtors in the context of a chapter 7 liquidation (the "Liquidation Analysis") in which a chapter 7 trustee (the "Trustee") is appointed and charged with reducing to cash any and all assets of ASARCO LLC, et al. (the "Debtors" or the "Company"). The Trustee would be required to either (i) sell the assets owned by the Debtors and their non-Debtor affiliates as going-concerns or (ii) wind down the Debtors' businesses and sell the individual assets of the Debtors and the non-Debtor affiliates. The assumption employed in this Liquidation Analysis is that the Trustee will need to wind down the Debtors' businesses and sell the individual assets of the Debtors and non-Debtor affiliates. This assumption is based on the Trustee's inability to provide a going-concern buyer with a permanent injunction against future asbestos claims and, therefore, it is doubtful that any buyer would be interested in buying the assets as a going concern on a consolidated basis.

This Liquidation Analysis estimates the range of proceeds that would be generated from the liquidation of the Debtors' assets in the context of chapter 7. The gross amount of cash available from a liquidation would be the sum of the proceeds from the disposition of the Debtors' assets, including cash held by the Debtors (and its non-Debtor affiliates' assets and cash if available to the Trustee) at the time of the commencement of the hypothetical chapter 7 cases. Such amount is reduced by the amount of any claims secured by such assets, the costs and expenses of the liquidation, and such additional administrative expenses and priority claims that may result from the termination of the Debtors' business and the use of chapter 7 for purposes of the hypothetical liquidation. Any remaining net cash would be allocated to creditors and stockholders in strict priority in accordance with section 726 of the Bankruptcy Code.

IMPORTANT CONSIDERATIONS AND ASSUMPTIONS

A general summary of the assumptions used by the Debtors in preparing this Liquidation Analysis follows. More specific assumptions are discussed in the Notes to Liquidation Analysis section.

In estimating the gross amount of proceeds available under hypothetical chapter 7 liquidation, estimates were made of the cash proceeds that might be realized from the liquidation of the Debtors' assets based upon a detailed review of the book value of assets as of January 31, 2009. The review examined an asset's quality, age, liquidity, and likelihood for recovery under a liquidation scenario.

THE DEBTORS' LIQUIDATION ANALYSIS IS AN ESTIMATE OF THE PROCEEDS THAT MAY BE GENERATED AS A RESULT OF A HYPOTHETICAL CHAPTER 7 LIQUIDATION OF THE ASSETS OF THE DEBTORS.

The Liquidation Analysis was prepared by AlixPartners LLP, one of the Debtors' professionals, with the assistance of management and assumes the case would convert to Chapter 7 on or around the confirmation date for the Plan of Reorganization. Underlying the Liquidation Analysis are a number of estimates and assumptions that are inherently subject to significant economic, competitive and operational uncertainties and contingencies beyond the control of the Debtors or the Trustee. In addition, various liquidation decisions upon which certain assumptions are based are subject to change. Therefore, there can be no assurance that the assumptions and estimates employed in determining the liquidation values of the Debtors' assets will result in an accurate estimate of the proceeds that would be realized were the Debtors to undergo an actual liquidation. Potential recoveries from preference actions, fraudulent conveyance actions, the litigation claims against Sterlite, and other miscellaneous causes of action are subject to pending or potential litigation, subject to appeal and inherently speculative as a result. The Liquidation Analysis does not assign a value to such contingent litigation assets except as outlined below in Notes 11 and 12. The Liquidation Analysis also assumes that there are no proceeds that would occur from the sale of any intangible assets. Accordingly, the actual liquidation value of the Debtors is speculative in nature and could vary materially from the estimates provided herein.

The Liquidation Analysis necessarily contains estimates of the amounts of claims that will ultimately become allowed claims. Estimates for various classes of claims are based upon the Debtors' evaluation of its books and records, proofs of claim and estimates of rejection claims associated with certain real estate leases and executory contracts. In preparing the Liquidation Analysis, the Debtors have projected amounts of claims that are consistent with the estimated Claims reflected in the Plan with certain modifications as specifically discussed herein. No order or finding has been entered by the Bankruptcy Court estimating or otherwise fixing the amount of claims at the projected levels set forth in this Liquidation Analysis. Accordingly, the actual amounts of claims against the estate could vary significantly from the estimate set forth herein.

NOTES TO LIQUIDATION ANALYSIS

1. Book Values – Unless stated otherwise, the book values used in this Liquidation Analysis are the un-audited net book values of the Debtors as of January 31, 2009 and are assumed to be a proxy for the assets of these entities as of the conversion date. The book values have not been subject to any review, compilation or audit by an independent accounting firm.
2. Cash and Marketable Securities – Based on cash projections through August 31, 2009 prepared by management.
3. Non-Debtor Intercompany and Intersegment Receivables – Non-debtor intercompany and intersegment receivables consist of amounts due from Minera Mexico International, ("MMI"), a subsidiary of Grupo Mexico, and two notes receivable from the Americas Mining Corporation ("AMC") in conjunction with the sale of Southern Peru Copper, including a settlement with the EPA. The MMI accounts receivable are disputed and assumed recoverable in the high case only. The short term AMC EPA note is included at 90 percent of its value while the long-term AMC EPA note is included at its present value assuming a 15 percent discount rate; the corresponding

amounts owed to the EPA are recognized as unsecured claims. The AMC ASARCO note is included at 90 percent of face value.¹

4. Trade Accounts Receivable – Trade accounts receivable include trade accounts receivable, net of reserves for bad debt, resulting from the sale of refined copper and raw materials. The recovery on trade accounts receivable is dependent upon a number of factors, including the nature of the transaction, the aging of receivables, and the existence of credit insurance associated with such receivables.
5. Other Receivables – The majority of the other receivables relate to interest due, receivables collateralized by land, and various receivables associated with settlements whose corresponding liabilities are listed as general unsecured claims. Other receivables also include amounts prepaid to professionals and suppliers. Recovery estimates for these assets are based upon such factors as the nature of the asset, its potential use during the liquidation period and the Debtors' ability to recover value.
6. Inventory and Supplies – Inventory includes refined copper (i.e., rods, cakes and cathodes), work-in-process inventory (i.e., anodes and copper concentrates and reverts) and by-product inventory (e.g., gold and silver).² Recovery estimates for inventory are based on current market prices for gold and silver and the August 2009 price per the Debtors' cash projections for copper; estimated material handling, smelting and refining charges; typical processing losses; and estimated brokerage fees. Supplies include warehouse supplies, spare parts and consumables and primarily consist of diesel fuel, tires, chemicals and various machinery and equipment parts. Recovery estimates for supplies are based on the nature of the asset and the Debtors' ability to recover value through auction, scrap sale or returning to vendors.
7. Prepaid Expenses – Prepaid expenses include a prepaid settlement and miscellaneous prepaid insurance as well as deposits associated with warehouse supplies and custom parts. The prepaid settlement results from an amount prepaid to the EPA in conjunction with an environmental consent decree and is deemed fully recoverable with the corresponding claim presented as an unsecured liability. Miscellaneous prepaid insurance and rent were reviewed and valued at 25 percent in the low case and 50 percent in the high case based upon such factors as the nature of the assets, their potential use during the liquidation period and the Debtors' ability to recover value. Deposits associated with warehouse supplies and custom parts were valued consistent with supplies included in Inventory and Supplies.
8. Investments – As a result of miscellaneous business activities, the Company has been issued ownership interests in various companies. Principal holdings include 5,000,000 shares of Elecktra Mines and 1,026,000 shares of Revett Minerals, which are valued on the balance sheet

¹ The judgment entered in the litigation regarding the transfer of the ownership in Southern Peru Copper Corporation relieved AMC from paying the remaining amount due under this note. However, an estimated recovery was included herein given that a recovery associated with the fraudulent conveyance damages was not specifically included herein. See Note 12.

² Inventory held by the Debtors includes work-in-process inventory of third parties being processed under tolling and other contractual agreements. Associated claims are included in Chapter 11 Administrative Claims.

at the closing prices as of January 31, 2009. The majority of the remaining investments are in miscellaneous corporations that are deemed to have limited value due to their illiquidity.

9. **Property, Plant and Equipment (“PP&E”)** – PP&E includes mining land, mining equipment, the concentrating plants at the Mission and Ray complexes, the Hayden smelter and the Amarillo refinery, as well as corporate office property and equipment. PP&E also includes land and machinery and equipment associated with non-operating mining and refining properties. The analysis assumes that the mining and refining properties would be liquidated separately by the Trustee. The recovery estimates for the Mission and Ray mining land are based on the estimated copper deposits, but would reflect discounts for unfunded closure costs and the impact of a liquidation sale. The recovery estimates for the concentrating plants assume that the buyers of the mining land would also acquire the on-site mills and concentrators. The recovery estimates for the Hayden smelter and the Amarillo refinery are assumed to be substantially impacted by the limited number of potential buyers as well as the associated potential environmental issues. The valuation analysis of the mining assets also takes into consideration the break-even cost of production as compared to current and projected copper prices, the valuation metrics in the mining industry, as well as the overall capital markets’ environment. At recent copper prices, there is substantial risk that the mines and associated mills and concentrators would not be sold as operating mines and the liquidation values would be substantially lower. The recovery estimates for mining equipment are based on the type of equipment, the age and condition of such equipment, the demand for used mining equipment, and auction discounts. The recovery estimates for corporate and non-operating land and equipment are based on recent value estimates by management, where available, and factors such as the potential costs to clean up such properties and the presence of associated environmental claims.
10. **Other Miscellaneous Assets** – This category includes security deposits and escrow accounts, with specific environmental claims reflected as unsecured liabilities, copper derivatives contracts, and potential tax refunds.
11. **Sterlite Net Litigation Recovery** – This category includes the potential recovery by the Trustee associated with the Debtors’ stated breach-of-contract claim against Sterlite (USA), Inc. and Sterlite Industries (India) Ltd. in connection with the original Sterlite purchase and sale agreement. The recovery estimate reflects the risks and associated range of probabilities in obtaining a judgment, enforcing a judgment, and collecting the damages, as well as the level of damages and the time value of money. The recovery estimate is also net of estimated litigation and enforcement costs such as attorneys’ fees and expert witness expenses. The likely desire by the Trustee to obtain a certain recovery within a relatively short time period was also considered.
12. **SCC Judgment Net Litigation Recovery** – This category comprises the potential recovery by the Trustee associated with the Debtors’ fraudulent conveyance judgment against AMC in connection with the pre-petition transfer of ownership in Southern Peru Copper Corporation. The Liquidation Analysis does not present a recovery at this time because the Bankruptcy Court will determine a value in connection with the Debtors’ Plan process. The value of the SCC Judgment in a Chapter 7 proceeding would likely be materially similar to the value in a Chapter 11 proceeding with respect to the Debtors’ Plan. However, under the Parent’s Plan the SCC

Judgment against AMC is released if the Parent's Plan is confirmed, but in a hypothetical liquidation under the Parent's Plan the SCC Judgment would not be released and, depending on the Bankruptcy Court's valuation, the value of the SCC Judgment could be substantial.

13. Chapter 7 Administrative Claims – Chapter 7 administrative claims include estimated trustee fees, professional fees, wind-down costs, and priority environmental claims. Trustee fees include those fees associated with the appointment of the Trustee in accordance with section 326 of the Bankruptcy Code. Trustee fees are estimated based on historical experience in other Chapter 7 cases and are calculated at 3.0 percent of the total cash generated from non-cash assets. The professional fees include the cost of attorneys, (including specialized environmental counsel), financial advisors, accountants, brokers and other professionals retained by the Trustee. It is assumed that professional fees would be incurred over a 12 to 18-month period. Wind-down costs include the costs to retain certain key employees and maintain critical corporate operations during the wind down at reducing levels over a 12 to 18-month period and are based on recent operating expense levels. Environmental claims include potentially non-dischargeable environmental claims by federal and state agencies associated with property owned by the Debtors and are based on approved settlement agreements.
14. Secured Claims – This category includes two claims, one filed by MMI under a tolling agreement and a second claim filed by Mitsui & Co. (USA), Inc. (“Mitsui”) relating to silver inventory.³
15. Chapter 11 Administrative Claims – Chapter 11 administrative claims include unpaid professional fees, key employee retention plan claims, post-petition wages and trade accounts payable, claims arising from post-petition tolling arrangements and contract assumption, and other administrative claims.
16. Tax and Priority Claims – Tax and priority claims include pre-petition income and property taxes and are estimated based on the Debtors' books and records as of January 31, 2009.
17. General Unsecured Claims – General unsecured claims include pre-petition trade accounts payable, bondholder claims, asbestos personal injury claims, toxic tort claims, environmental claims, tax-related claims, workers' compensation claims, pension and post-retirement benefits claims, and rejection claims associated with leases and executory contracts.⁴ Residual environmental claims are based on settlements associated with the Company's proposed chapter 11 Plan of Reorganization.⁵
18. Shareholder Interests – No proceeds are estimated to be available to pay equity interests in ASARCO or affiliates.

³ The Debtors dispute the validity of Mitsui's lien. If the lien is successfully avoided in a chapter 7 proceeding, Mitsui's claim would be reclassified as a general unsecured claim.

⁴ Rejection damages are based on a chapter 11 scenario and, based on filed claims, may be higher in a liquidation.

⁵ Late filed claims are included in general unsecured claims based on the assumption that a new bar date would be set in the Chapter 7 proceedings or such claims would be otherwise allowed as timely filed claims.

ASARCO LLC, et al.
Liquidation Analysis
\$ in Millions

			High	Low
		Book Value	Estimated	Estimated
Note Ref.	at 1/31/2009 (1)	Liquidation	Liquidation	Liquidation
		Factor	Value	Value
Assets				
Cash and Marketable Securities	2	\$1,333.6	93.7%	\$1,250.0
Non-Debtor Intercompany and Intersegment Receivables	3	49.6	83.9%	41.6
Trade Accounts Receivable	4	52.3	88.5%	46.3
Other Receivables	5	22.4	93.8%	21.0
Inventory and Supplies	6	223.2	74.2%	165.6
Prepaid Expenses	7	17.4	68.4%	11.9
Investments	8	0.9	44.4%	0.4
Property, Plant and Equipment, Net	9	562.3	79.7%	447.9
Other Miscellaneous Assets	10	27.0	229.3%	61.9
Sterlite Net Litigation Recovery	11	-	n/a	100.0
SCC Judgment Net Litigation Recovery	12	-	n/a	TBD
Estimated Assets Available for Distribution			2,146.6	2,016.7
Chapter 7 Administrative Claims 13				
Trustee Fees			26.9	23.0
Professional Fees			22.9	31.8
Wind Down Costs			3.7	4.3
Environmental Claims			261.3	261.3
Subtotal Claims			314.8	320.4
Recovery Percentage			100%	100%
Estimated Assets Available for Further Distribution			1,831.8	1,696.3
Secured Claims 14				
Chapter 11 Secured Claims			28.3	33.3
Subtotal Claims			28.3	33.3
Recovery Percentage			100.0%	100.0%
Estimated Assets Available for Further Distribution			1,803.5	1,663.0
Chapter 11 Administrative Claims 15				
Post Petition Professional Fees			26.0	28.0
Post Petition Tolling Claims			42.2	42.2
Key Employee Retention Plan Claims			1.2	1.2
Other Administrative Claims			69.7	103.7
Post Petition Wage Claims			8.4	8.4
Post Petition Accounts Payable Claims			53.1	53.1
Subtotal Claims			200.6	236.6
Recovery Percentage			100.0%	100.0%
Estimated Assets Available for Further Distribution			1,602.9	1,426.4
Tax and Priority Claims 16				
Tax and Priority Claims			4.0	4.0
Subtotal Claims			4.0	4.0
Recovery Percentage			100.0%	100.0%
Estimated Assets Available for Further Distribution			1,598.9	1,422.4

ASARCO LLC, et al.
Liquidation Analysis
\$ in Millions

		High		Low	
		Liquidation	Estimated	Liquidation	Estimated
Note Ref.	Book Value	Factor	Liquidation	Factor	Liquidation
	at 1/31/2009 (1)		Value		Value
General Unsecured Claims					
	17		75.4		79.7
Trade and General Unsecured Claims					
Bondholder Claims			447.7		550.8
Unsecured Asbestos Personal Injury Claims			1,000.0		1,000.0
Toxic Tort Claims			41.7		51.7
Previously Settled Environmental Claims			510.7		510.7
Miscellaneous Federal/State Environmental Claims			102.9		102.9
PRP-Only Claims			49.1		53.2
Residual Environmental Claims			736.0		736.0
Other Miscellaneous Environmental Claims			8.3		8.3
AMC Tax Reimbursement Claim			-		161.7
Late Filed Claims			9.7		25.6
Site Reclamation Claims			13.0		100.0
Underfunded Pension Obligations (PBGC)			179.6		230.0
Other Pension Claims			13.3		13.6
Deferred Income Benefit Claims			2.3		2.3
Workers Compensation Claims			21.0		21.0
Retiree Medical Obligations			256.3		256.3
Surety Claims			5.0		48.0
Subtotal Claims			3,472.0		3,951.8
Recovery Percentage			46.1%		36.0%
Estimated Assets Available for Further Distribution			-		-
Shareholder Interests					
	18		-		-
Interests of ASARCO LLC			-		-
Interests of Asbestos Subsidiary Debtors			-		-
Interests of Other Subsidiary Debtors			-		-
Subtotal Interests			-		-
Recovery Percentage			0.0%		0.0%

EXHIBIT F-1
TO THE DISCLOSURE STATEMENT

**DEBTORS' ESTIMATED ANTICIPATED ADMINISTRATIVE
EXPENSES OF THE TRUSTS AND THE PLAN ADMINISTRATOR
UNDER THE DEBTORS' PLAN**

Entity	Estimated Fees and Expenses (in millions of dollars)
Asbestos Trust	\$27.5
Environmental Custodial Trusts	\$27.5
Liquidation Trust	\$5 to 15 ¹
SCC Litigation Trust	\$5 to 20 ²
Plan Administrator	\$15

¹ The Liquidation Trust Expense Fund will be funded with \$5 million. An additional \$10 million will be placed in the Liquidation Trust Reserve held by the Plan Administrator, and may be requested by the Liquidation Trustee as additional funding for the Liquidation Trust if he deems it reasonably necessary for the continued operations of the Liquidation Trust.

² The SCC Litigation Trust Expense Fund will be funded with \$5 million. An additional \$15 million will be placed in the SCC Litigation Trust Reserve held by the Plan Administrator, and may be requested by the SCC Litigation Trustee as additional funding for the SCC Litigation Trust if he deems it reasonably necessary for the continued operations of the SCC Litigation Trust.

**EXHIBIT F-2
TO THE DISCLOSURE STATEMENT**

**Parent's Estimated Anticipated Administrative Expenses of the Trusts and the Plan
Administrator Under the Parent's Plan**

ENTITY	ESTIMATED FEES AND EXPENSES (in millions of dollars)
Section 524(g) Trust	\$27.5
Plan Administrator	[TBD]
Environmental Custodial Trust	\$266,512,979

EXHIBIT G TO THE DISCLOSURE STATEMENT

LEGAL STRUCTURE OF ASARCO LLC AND ITS SUBSIDIARIES PRIOR TO THE EFFECTIVE DATE

ASARCO LLC, a Delaware limited liability company and parent of:

Debtor Entities

1. ALC, Inc., a Tennessee corporation, 100% owned by ASARCO LLC
2. American Smelting and Refining Company, a New Jersey corporation, 100% owned by ASARCO LLC
3. AR Mexican Explorations, Inc., a Delaware corporation, 100% owned by ASARCO LLC
4. ASARCO Master, Inc., a Delaware corporation, formerly known as ASARCO (Delaware) Inc., a Delaware corporation, 100% owned by ASARCO Master, Inc. and are no longer in existence.
 - 4.1 AR Montana Corporation, a Delaware corporation, 100% owned by ASARCO LLC
 - 4.2 ASARCO Arizona, Inc., a Delaware corporation, 100% owned by ASARCO LLC
 - 4.3 ASARCO de Mexico (Delaware), Inc., a Delaware corporation, 100% owned by ASARCO LLC
 - 4.4 ASARCO Exploration Holdings Company, Inc., a Delaware corporation, 100% owned by ASARCO LLC
 - 4.4.1 ASARCO Aginskoe, Inc., a Delaware corporation, 100% owned by ASARCO Exploration Holdings Company, Inc.
 - 4.5 ASARCO Mexicana (Delaware), Inc., a Delaware corporation, 100% owned by ASARCO LLC
 - 4.6 ASARCO Peruvian Exploration Company, a Delaware corporation, 100% owned by ASARCO LLC
 - 4.7 Biotrace Laboratories, Inc., a Utah corporation, 100% owned by ASARCO LLC
 - 4.8 Domestic Realty Company, Inc., a Montana corporation, 100% owned by ASARCO LLC
 - 4.9 Federated Metals Corp., a New York corporation, 100% owned by ASARCO LLC
 - 4.9.1 LSLC Corp., a New York corporation, 100% owned by Federated Metals Corp.
 - 4.10 GH Holdings, Inc., a Delaware corporation, 100% owned by ASARCO LLC
 - 4.10.1 GHH, LLC, a Nevada limited liability company, 100% owned by GH Holdings, Inc.
 - 4.10.2 Green Hill Cleveland Mining Company, a Nevada corporation, 81.6% owned by ASARCO Master, Inc. *This company is now a subsidiary of ASARCO Master, Inc. and was not merged.*
 - 4.11 Midland Coal Company, Inc., a New York corporation, 100% owned by ASARCO LLC
 - 4.12 Northern Peru Mining Corp., a Delaware corporation, 100% owned by ASARCO LLC
 - 4.13 NPMC, Inc., a Delaware corporation, 100% owned by ASARCO LLC
5. ASARCO Oil And Gas Company, Inc., a New York corporation, 100% owned by ASARCO LLC
6. Bridgeview Management Company, Inc., a New Jersey corporation, 100% owned by ASARCO LLC
7. Capco Pipe Company, Inc., an Alabama corporation, 100% owned by ASARCO LLC
8. Cement Asbestos Products Company, an Alabama corporation, 100% owned by ASARCO LLC
9. Covington Land Company, a Delaware corporation, 100% owned by ASARCO Santa Cruz, Inc. This entity is not a directly owned subsidiary of ASARCO LLC (see 26 and 26.1)
10. Encycle, Inc., a Delaware corporation, 100% owned by ASARCO LLC
 - 10.1 Encycle/Texas, Inc., a Delaware corporation, 100% owned by Encycle, Inc.
 - 10.2 ASARCO Consulting, Inc., a Delaware corporation, 100% owned by Encycle, Inc.
 - 10.2.1 Compania Hydrometrics de Mexico, S.A. de C.V., a Mexican sociedad anónima de capital variable, 100% owned by ASARCO Consulting, Inc. This entity has not filed for bankruptcy protection.
11. Government Gulch Mining Company Ltd., an Idaho corporation, 100% owned by ASARCO LLC
12. Lac d'Amiante du Québec, Ltée, a Delaware corporation, 100% owned by ASARCO LLC
 - 12.1 Lake Asbestos of Quebec Ltd., a Delaware corporation, 100% owned by Lac d'Amiante du Québec, Ltée
13. LAQ Canada Ltd., a Delaware corporation, 100% owned by ASARCO LLC
14. AR Sacaton, LLC, a Delaware limited liability company, 100% owned by ASARCO LLC
15. ASARCO Exploration Company, Inc., a New York corporation, 100% owned by ASARCO LLC.
 - 15.1 ASARCO Exploration Chile, S.A., 100% owned by ASARCO Exploration Company, Inc. This company has not filed for bankruptcy protection.

16. Southern Peru Holdings, LLC, a Delaware limited liability company, 100% owned by ASARCO LLC
17. Alta Mining and Development Company, a Utah corporation, 62.4% owned by ASARCO LLC
18. Blackhawk Mining and Development Company, Limited, an Idaho corporation, 99.7% owned by ASARCO LLC
19. Peru Mining Exploration and Development Company, a Delaware corporation, 52.3% owned by ASARCO LLC
20. Tulipan Company, Inc., a Delaware corporation, 63.1% owned by ASARCO LLC
21. Wyoming Mining and Milling Company, an Idaho corporation, 95.7% owned by ASARCO LLC

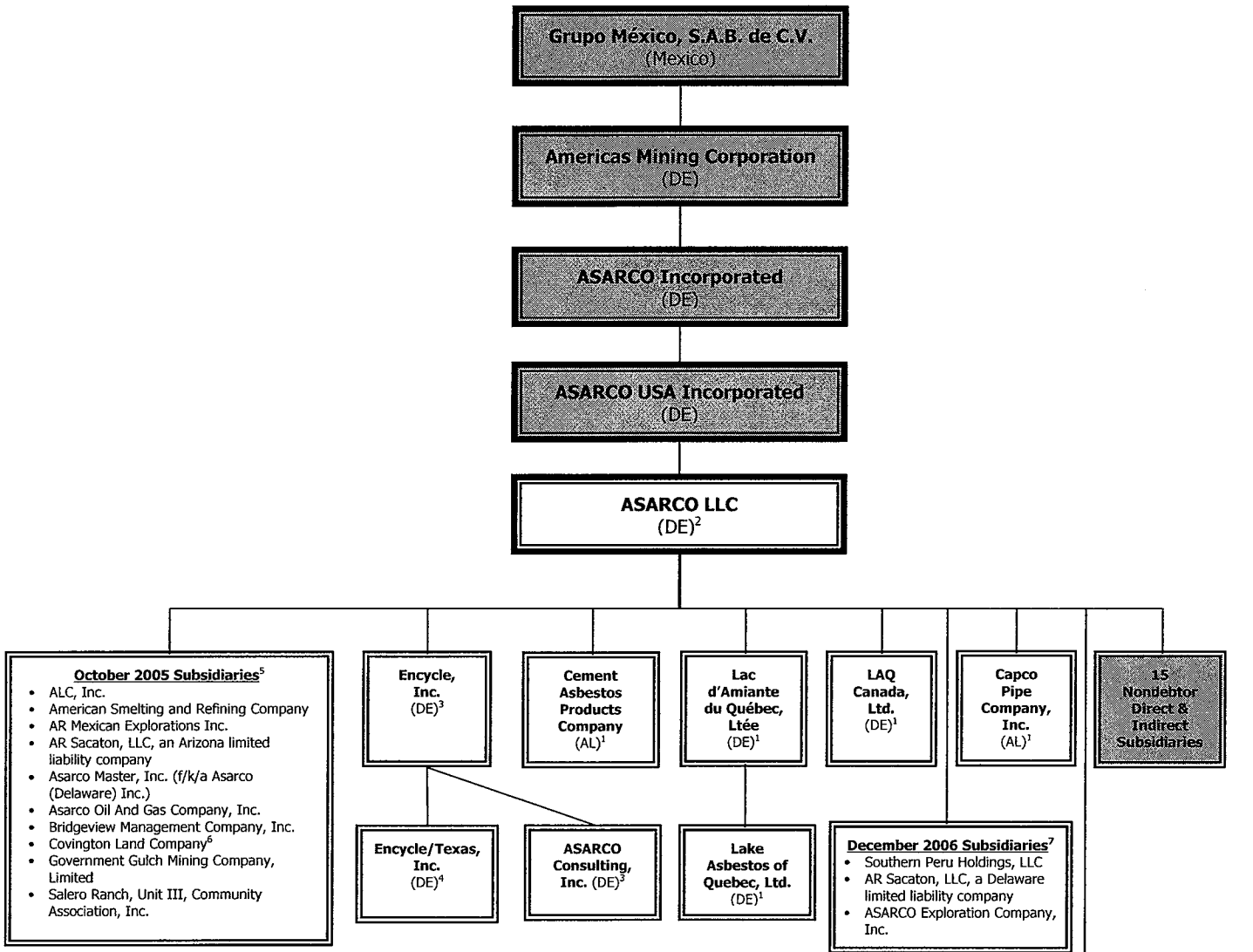
Non-Bankrupt Entities (other than those listed as subsidiaries of certain Debtor Entities)

22. AR Silver Bell, Inc., a Delaware corporation, 100% owned by ASARCO LLC
 - 22.1 Silver Bell Mining, LLC, a Delaware limited liability company, 75% owned by AR Silver Bell, Inc.
23. ASARCO de Mexico, S.A. de C.V., a Mexican sociedad anónima de capital variable, 100% owned by ASARCO LLC
24. ASARCO Exploration Company of Canada Ltd., a Canadian corporation, 100% owned by ASARCO LLC
 - 24.1 ASARCO, Incorporated y Cia., S.R.C. a Spanish sociedad regular colectiva, 100% owned by ASARCO Exploration Company of Canada Ltd.
25. ASARCO Exploration Sucursal em Portugal, a Portuguese branch, 100% owned by ASARCO LLC
26. ASARCO Santa Cruz, Inc., a Delaware corporation, 100% owned by ASARCO LLC
 - 26.1 Covington Land Company, a Delaware corporation, 100% owned by ASARCO Santa Cruz, Inc.
This entity filed for bankruptcy protection.
27. Copper Basin Railway, Inc., a Delaware corporation, 100% owned by ASARCO LLC
28. Federated Genco Limited, a Canadian corporation, 100% owned by ASARCO LLC
29. Geominerals Insurance Company Ltd., a Bermuda corporation, 100% owned by ASARCO LLC
30. Geominerals Ltd., a Bermuda corporation, 100% owned by ASARCO LLC
31. Liard River Mining Company Ltd. (N.P.L.), a Canadian corporation, 43.6% owned by ASARCO LLC
32. Minera San Bernardo, S.A. de C.V., a Mexican sociedad anónima de capital variable, 100% owned by ASARCO LLC

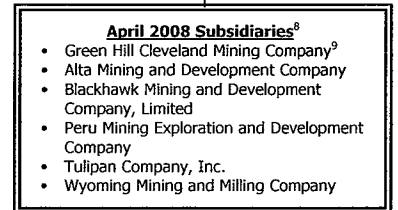
Source: ASARCO LLC

EXHIBIT H TO THE DISCLOSURE STATEMENT

Organizational Structure of the Debtors and Certain Related Entities Prior to the Effective Date



1. Debtor entities filed on April 11, 2005. Their cases are jointly administered with ASARCO LLC.
2. ASARCO LLC filed on August 9, 2005.
3. Encycle, Inc. filed on August 26, 2005. Asarco Consulting, Inc. filed on September 1, 2005. Both entities are jointly administered with ASARCO LLC.
4. Encycle/Texas Inc. filed on August 26, 2005. Its case was converted to chapter 7 case on October 24, 2005.
5. Ten entities filed on October 13, 2005. The cases were all jointly administered with ASARCO LLC. By order entered on July 14, 2008, the bankruptcy cases of AR Sacaton LLC, an unincorporated Arizona limited liability company, and Salero Ranch, Unit III, Community Association, Inc., a non-profit organization, were deconsolidated and dismissed.
6. Covington Land Company is 100% owned by nondebtor ASARCO Santa Cruz, Inc., which is 100% owned by ASARCO LLC.
7. Three entities filed on December 12, 2006. All of the cases are jointly administered with ASARCO LLC.
8. Six entities filed on April 21, 2008. All of the cases are jointly administered with ASARCO LLC.
9. Green Hill Cleveland Mining Company is 81.6% owned by ASARCO Master, Inc.



Non-debtor entities

EXHIBIT I
TO THE DISCLOSURE STATEMENT

Curriculum Vitae of the FCR, Judge Robert C. Pate

JUDGE ROBERT C. PATE

BUSINESS ADDRESS:

Frost Bank Plaza
802 North Carancahua, Suite 1350
Corpus Christi, Texas 78470-0165
(361) 888-8413
FAX (361) 887-6207
judgepate@robertcpatelaw.com

BACKGROUND:

Sole Practitioner: Attorney at Law: Corpus Christi, Texas (January 1, 1997 – March 30, 1998; January 1, 1999 - present). Attorney, Mediator and Arbitrator. Mediation of complex business and personal injury cases.

Appointed in complex bankruptcy proceedings to provide special services to the Court or litigants. Significant cases include: *In Re: TransTexas Gas Corporation, et al*, Case No. 99-21550-C11 (Jointly Administered), United States Bankruptcy Court, Southern District of Texas, Corpus Christi Division as well as *In Re: EnRe, L.P.*, Case No. 02-21354, United States Bankruptcy Court, Southern District of Texas, Corpus Christi Division. In each case service as Court Appointed expert requested to review numerous mechanic's and materialman's lien filings in this large oil and gas case and to prepare written proposed factual findings, proposed legal conclusions and recommendations to the Court for the disposition of each lien claim. Also, *In Re: Clemtex, Inc.*, Case No. 01-21794-C-11, United States Bankruptcy Court, Southern District of Texas, Corpus Christi Division; Court Appointed Future Claims Representative in a silicosis 'mass tort' bankruptcy proceeding. *In Re: Lac d'Amiante du Québec Ltée, et al*, Case No. 05-20521, (ASARCO) United States Bankruptcy Court, Southern District of Texas, Corpus Christi Division; Court Appointed Future Claims Representative in an asbestos bankruptcy proceeding pursuant to 11 U.S.C. §524(g).

Former District Judge with Visiting Status: Texas (January 1, 1999 – Present). Service to Texas as a District Judge on Appointment of the Presiding Judge of the 5th Administrative Region, Texas or the Chief Justice of Texas. Trial of civil and criminal cases throughout Texas upon appointment. Has served on assignment as the Presiding Judge of the following Courts: 36th District Court, Live Oak and San Patricio Counties; 94th, 214th, 319th, 105th and 117th District Courts, Nueces County; 79th District Court, Jim Wells and Brooks Counties; 105th District Court, Kenedy and Kleberg Counties; 135th District Court, Refugio, Victoria and Jackson Counties; 156th District Court, San Patricio and Bee Counties; 229th Duval County; 229th and 381st District Courts, Starr County; 343rd District Court, Bee, San Patricio, Live Oak and Aransas Counties; 49th District Court, Zapata County and Drug Impact Court, Webb County; 111th, 406th and 341st District Courts, Webb County; County Courts of Law, Webb County; 107th, 138th, 357th

and 404th District Courts, Cameron County; County Court at Law No. 1, Cameron County; 24th District Court, Calhoun County; 197th District Court, Willacy County; Nueces County Jail Magistrate; 92nd, 332nd and 389th District Courts, Hidalgo County; and the 293rd District Court, Dimmit County, Texas.

Judge, 148th Judicial District Court: Nueces County, Texas (March 31, 1998 - December 31, 1998). Appointed State District Court Judge by Governor George W. Bush. The 148th District Court is a Court of general felony criminal and civil jurisdiction.

In the 1998 General Election, Judge Pate unsuccessfully ran as the incumbent Republican candidate for the judicial position he held.

Judge, 28th Judicial District Court: Nueces County, Texas (April, 1995 - December 31, 1996). Appointed State District Court Judge by Governor George W. Bush. The 28th District Court is a Court of general felony criminal and civil jurisdiction.

Presiding Judge, Nueces County Juvenile Court (July - December, 1995).

In the 1996 General Election, Judge Pate unsuccessfully ran as the incumbent Republican candidate for the judicial position he held.

Sole Practitioner: Attorney at Law: Corpus Christi, Texas (March, 1980 - April, 1995). As an attorney practiced primarily in the areas of oil and gas and corporate law, debt restructuring, bankruptcy and business litigation related thereto. Significant cases include: *Ben B. Floyd, Trustee, et al. v. Shell Western E&P, Inc.*, Case No. C-0999-91-E, 275th District Court, Hidalgo County, Texas; and, *In Re: Charles Schreiner Nelson, Debtor*, Case No. 87-50776A, United States Bankruptcy Court, Western District of Texas, San Antonio Division.

Mediations and Arbitrations: Mediation of complex business disputes including lender liability claims, anti-trust claims, contractual disputes, wrongful death and personal injury claims. Since 1989 mediated over 625 cases as a result of a Court Order from a State and/or Federal Court or through the mutual agreement of the attorneys and parties involved. Significant cases mediated include: *Don Grant, et al. v. Occidental Chemical Corporation, et al.*, Case No. 93-1987-A, 105th District Court, Nueces County, Texas, a class action with over 8,000 class members.

Mediation of contested cases in areas including but not limited to:

- contracts
- antitrust
- sexual harassment
- partnership dissolution
- personal injury
- workmen's compensation

- admiralty
- FDIC collection/foreclosure matter
- civil rights claims
- age discrimination
- product liability
- toxic tort/environmental claims
- land use claims
- insurance coverage disputes
- insurance bad faith claims
- deceptive trade practice claims
- oil and gas matters
- bankruptcy adversary proceedings
- attorney/client disputes

Partner: Giles, Adams & Pate, Attorneys at Law: Corpus Christi, Texas (February, 1979 - March, 1980). Attorney practicing primarily in the areas of oil and gas and corporate law.

Associate: Stone & Giles, Attorneys at Law: Corpus Christi, Texas (August, 1978 - February, 1979).

Rolater, Ducote and Belew, Certified Public Accountants: Dallas, Texas (August, 1976 - March, 1977). Staff Accountant.

Arthur Young & Co., Certified Public Accountants: Dallas, Texas (August, 1974 - August, 1975). Staff Tax Accountant.

The University of Texas: Austin, Texas (Summer, 1973 - Fall, 1973). Teaching Assistant - Department of Accounting.

Capital National Bank: Austin, Texas (February, 1973 - May, 1973). Trust-Tax Assistant. Prepared various trust tax returns for trusts administered by the bank.

Texas State Health Department and Texas Railroad Commission: Austin, Texas (February, 1972 - June, 1972, and Summer, 1971, respectively). Clerk.

Texas Senate: Austin, Texas (62nd Session; January, 1971 - May, 1971). Assistant Sergeant-at-Arms of the Texas Senate.

EDUCATION:

Southern Methodist University: Dallas, Texas (August, 1975 - June, 1978). Juris Doctor Degree.

University of Texas: Austin, Texas (January, 1973 - August, 1974). Master of Professional Accounting Degree. Curriculum parallels the MBA degree with a specialization in accounting.

University of Texas: Austin, Texas (September, 1970 - December, 1972). B.A. Degree with Honors in Government.

MISCELLANEOUS:

Judicial and Legal:

Attorney at Law: Texas. Member, State Bar of Texas (No. 15565800), American Bar Association and Nueces County Bar Association; Member of the Bar of the United States District Courts for the Southern and Western Districts of Texas; the United States Court of Appeals, Fifth Circuit; the United States Tax Court; and the Supreme Court of the United States.

Life Fellow: Texas Bar Foundation (1995 - present).

Fellow: American Bar Foundation (2000 - present).

Member, Nueces County Juvenile Board (1995-1996; 1998). Chairman, Implementation, Nueces County Juvenile Justice Alternative Education Program (1996).

Member: Nueces County Board of Judges (1995-1996; 1998).

Member: Texas Supreme Court Task Force on Foster Care (1995-1996). (Served on Appointment of Texas Chief Justice Tom Phillips)

Member: Lawyer-Pilot Bar Association.

Member: Alternative Methods of Dispute Resolution Standing Committee of the State Bar of Texas (1990 - 1993).

Member: The College of the State Bar of Texas (2005 - present).

Accounting:

Certified Public Accountant: Certified April 1975. Texas Certificate Number 14,382.

Member: Texas Society of Certified Public Accountants.

Community Service:

Member: Board of Directors, HALO-Flight, Inc. (1999-2006; Chairman, November 2000-2006). Non-profit air ambulance service providing EMS throughout South Texas.

Member: Advisory Board of Directors, Salvation Army (1996-2000).

Member: Church of the Good Shepherd Episcopal (1982 - present); Member of Stewardship Committee (1994); Lay Reader (1994 - present); Vestry Member (1995-1998).

Member: Executive Committee, Young Life Corpus Christi (1982-1988; 1995-1998). Chairman, Finance Committee (1984-1988).

Co-Chairman (with wife, Linda) of the Arrangements Committee - 1995, American Cancer Society Cattle Barons Ball.

Member: Public Responsibility Committee for the Corpus Christi State School (October, 1981-1986). Chairman (1982-1986).

Co-Chairman (with wife, Linda) of KEDT (Public Television) Fund Raising Auction (1986).

Member: Administrative Board, First United Methodist Church, Corpus Christi, Texas (1979-1980); FUMC Summer Camp Director (1980, 1981 and 1982). Member, Council on Ministries, (December, 1978-1982).

Member: Administrative Board, Highland Park Methodist Church, Dallas, Texas (January, 1977-August, 1978);

Interests:

F.A.A.: Airline Transport Pilot, single and multi-engine land aircraft. Certified Flight Instructor-aircraft single and multi-engine land and Instrument Flight Instructor. Also, glider rated -- private pilot privileges.

PERSONAL DATA:

Date of Birth:	April 2, 1951, Corpus Christi, Texas
Height:	5'9-1/2"
Weight:	190 lb.
Marital Status:	Married, Linda Laws Pate, three children
Hobbies:	Private aviation, cycling and running; Finisher, 2004 Houston HP Marathon; and, 2005 Austin Freescale Marathon.

**EXHIBIT J
TO THE DISCLOSURE STATEMENT**

List of Professional Persons Representing the Debtors

<u>Name</u>	<u>Description of Services</u>
Jordan, Hyden, Womble, Culbreth, & Holzer, P.C.	Attorneys for the Debtors
Baker Botts L.L.P.	Attorneys for the Debtors
Bracewell & Giuliani LLP	Special Litigation Counsel
Quarles & Brady LLP	Special Litigation Counsel for Labor and Employment
Snell & Wilmer L.L.P.	Special Environmental Counsel
Anderson Kill & Olick, L.L.P.	Special Insurance Counsel
Hawley Troxell Ennis & Hawley LLP	Special Litigation Counsel (Coeur d'Alene Litigation)
Weinstein Kitchenoff & Asher LLC	Special Litigation Counsel (Ongoing Antitrust Litigation)
Keegan, Linscott & Kenon, P.C.	Accountants
Spieth, Bell, McCurdy & Newell Co., L.P.A.	Special Counsel for Labor-Related Matters
Brown McCarroll, L.L.P.	Special Litigation Counsel
Marten Law Group	Special Environmental Counsel
Fennemore Craig, P.C.	Special Counsel
Patton Boggs LLP	Special Counsel for MSHA and OSHA Compliance Matters
Porzio Bromberg & Newman P.C.	Special Counsel
The Filardi Law Offices LLC	Connecticut Local Counsel
Sitrick and Company Inc.	Strategic Communications Consultant
The Trumbull Group, LLC	Claims, Noticing and Balloting Agent (prior to replacement by AlixPartners)
AlixPartners, LLP	Bankruptcy Claims Professional and Claims, Noticing and Balloting Agent, effective as of April 21, 2008
Hamilton, Rabinovitz & Alshuler, Inc.	Expert Consultants on Asbestos Related Matters
Halperin Battaglia Raicht LLP	Experts (AMC Fraudulent Transfer Litigation)
Lehman Brothers Inc.	Financial Advisor and Investment Banker
Alvarez & Marsal, LLC	Financial and Restructuring Advisors and Special Purpose Testifying Experts
Paul Ruh of Alvarez & Marsal, LLC	Bankruptcy Controller
Mercer Management Consulting, Inc.	Special Purpose Financial Advisors
SRK Consulting (U.S.), Inc.	Consultant Regarding Production and Cost Projections Analysis and Consolidated Business Plan
Claro Group, LLC	Claims-Data-Management and Insurance-Recovery Consultants
Winters, Dorsey & Company, LLC	Special Purpose Consulting Experts (South Mill at Mission Mine Litigation)
Arnold Slackangast	Special Purpose Environmental Professional (to conduct air quality modeling audit for El Paso Smelter)
LECG, LLC	Environmental Consultant (testifying expert regarding estimation of environmental liabilities)
Battelle Memorial Institute, Columbus Operations	Environmental Consultant (testifying expert regarding estimation of environmental liabilities at the Tri-States Sites)
Gault Group, Inc.	Environmental Consultant (acid rock drainage assessment work at Mission Mine Complex)
CB Richard Ellis International Mining & Metals Group	Financial and Marketing Advisor Regarding Sale of Tennessee Mines Division and Sale of Heddleston, Montana Properties

<u>Name</u>	<u>Description of Services</u>
RECON Real Estate Consultants, Inc.	Broker for the Sale of El Paso, Texas Property
Pate Auction, Inc.	Auctioneers for the Sale of Personal Property at the East Helena, Montana Facility
NAI Utah Commercial Real Estate, Inc.	Real Estate Agent for Sale of Salt Lake City, Utah Property
Grant Thornton LLP	Auditors
Jay L. Westbrook	Special Purpose Consulting and Testifying Expert
Business Strategies, Inc.	Accounts Payable Auditor and Consultant
Innisfree M&A Incorporated	Plan Solicitation and Information Agent

EXHIBIT K TO THE DISCLOSURE STATEMENT

List of Filing Dates of the Debtors

<u>Filing Date</u>	<u>Debtor</u>
April 11, 2005	<ul style="list-style-type: none"> • CAPCO Pipe Company, Inc. (f/k/a/ Cement Asbestos Products Company) • Cement Asbestos Products Company • Lac d'Amiante du Québec Ltée (f/k/a Lake Asbestos of Quebec, Ltd.) • Lake Asbestos of Quebec, Ltd. • LAQ Canada, Ltd.
August 9, 2005	<ul style="list-style-type: none"> • ASARCO LLC
August 26, 2005	<ul style="list-style-type: none"> • Encycle, Inc. • Encycle/Texas, Inc.*
September 1, 2005	<ul style="list-style-type: none"> • Asarco Consulting, Inc.
October 13, 2005	<ul style="list-style-type: none"> • ALC, Inc. • American Smelting and Refining Company • AR Mexican Explorations Inc. • AR Sacaton, LLC, an Arizona limited liability company⁺ • Asarco Master, Inc. (f/k/a Asarco (Delaware) Inc.) <ul style="list-style-type: none"> • AR Montana Corporation (<i>merged</i>) • Asarco Aginskoe, Inc. (<i>merged</i>) • Asarco Arizona, Inc. (<i>merged</i>) • Asarco de Mexico (Delaware) Inc. (<i>merged</i>) • Asarco Exploration Holdings Company, Inc. (<i>merged</i>) • Asarco Mexicana (Delaware) Inc. (<i>merged</i>) • Asarco Peruvian Exploration Company (<i>merged</i>) • Biotrace Laboratories, Incorporated (<i>merged</i>) • Domestic Realty Company, Inc. (<i>merged</i>) • Federated Metals Corporation (<i>merged</i>) • GH Holdings Inc. (<i>merged</i>) • GHH, LLC (<i>merged</i>) • LSLC Corp. (<i>merged</i>) • Midland Coal Company Incorporated (<i>merged</i>) • Northern Peru Mining Corporation (<i>merged</i>) • NPMC, Incorporated (<i>merged</i>)

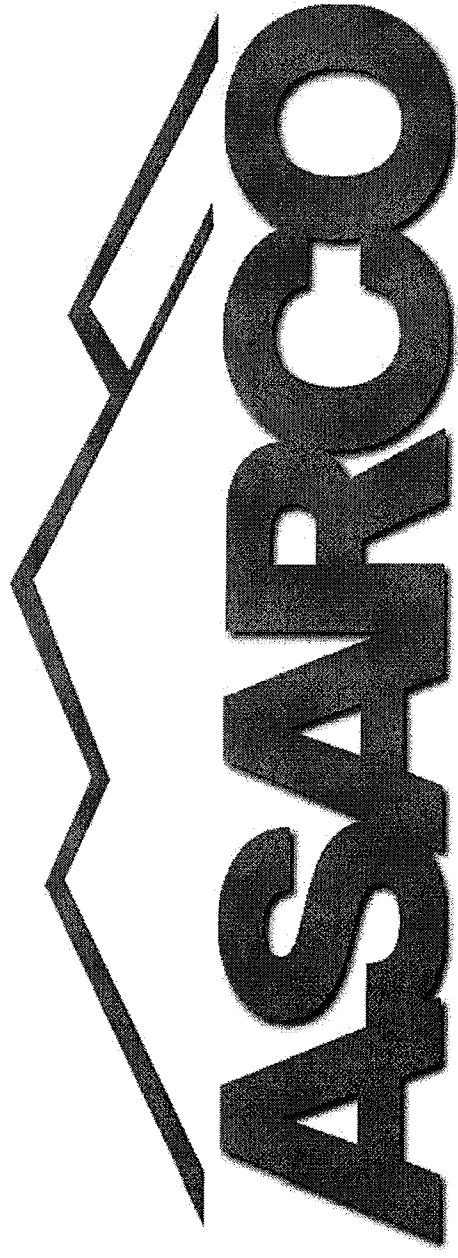
* By order entered on October 24, 2005, the bankruptcy case of Encycle/Texas, Inc. was converted to a chapter 7 liquidation case and has, since then, been separately administered.

⁺ By order entered on July 14, 2008, the bankruptcy cases of AR Sacaton, LLC, an unincorporated Arizona limited liability company, and Salero Ranch, Unit III, Community Association, Inc., a non-profit organization, were deconsolidated and dismissed.

<u>Filing Date</u>	<u>Debtor</u>
	<ul style="list-style-type: none"> • Asarco Oil and Gas Company, Inc. • Bridgeview Management Company, Inc. • Covington Land Company • Government Gulch Mining Company Limited • Salero Ranch, Unit III, Community Association, Inc.⁺
December 12, 2006	<ul style="list-style-type: none"> • AR Sacaton, LLC, a Delaware limited liability company • ASARCO Exploration Company, Inc. • Southern Peru Holdings, LLC
April 21, 2008	<ul style="list-style-type: none"> • Alta Mining and Development Company • Blackhawk Mining and Development Company, Limited • Green Hill Cleveland Mining Company • Peru Mining Exploration and Development Company • Tulipan Company, Inc. • Wyoming Mining and Milling Company

EXHIBIT L
TO THE DISCLOSURE STATEMENT

Parent's Financial Information Regarding the Debtors



5 Year Plan (2008-2012)

Financial Overview

Key Assumptions – Reorganization Related Items

- Emerge from Bankruptcy during December 2008
- Pay the remaining ERP and other bonuses in that same month and terminate ERP provision in G/A budget after 2008
- Reorganization costs eliminated beyond 2008
- Reinstate \$439.80M of public bonds at the beginning of 2009 at their original contracted rate (the interest rate on all bonds is a weighted average of 7.10%)
- Retain the currently existing bonus incentive program after the reorganization is complete; production cost and G&A reflect 100% achievement of the plan
- El Paso Smelter not considered running in base case 5 year Plan
- \$200M cash balance available for operating activities after completion of reorganization
- 5 year plan numbers for 2008 are same as the current 2008 Budget

Key Assumptions – Earnings Items

- Represented labor rates are based on the current union contract
 - Labor contract effective until mid 2010
 - Labor contract calls for \$1 per hour rate increase from September 30, 2008
 - Additional \$1 per hour rate increase effective September 30, 2009.
 - After 2009, no further hourly rate increase considered in plan
- 4.5% salary increase considered for staff employees effective June 1, 2008.
 - After 2008, no further salary increase for staff employees considered in plan
- Interest rates on excess cash investments – 3.8% on entire cash balance until exit from bankruptcy but only on a free amount of \$100M after 2008.
- No Inflation considered on base case scenario
- Exercise \$25.7M of early Buyout Option of Silver Bell lease on January 1, 2009
- Hayden Moly Plant operational in 2009

Key Assumptions – Tax Items

- Income Tax rate on earnings – 39.25%
- No tax payment considered in the 2008 budget; the entire tax liability on earnings outstanding until Tax Sharing Agreement settled
- The accrued Income tax liability is anticipated to reach \$531M at the end of 2008
- Regular Income tax payment resumed after exit from bankruptcy
- No Resolution on tax refund
- The property tax of all Arizona operations considers the currently assessed property values

Key Assumptions – Other Items

- February 2008, collection of the last \$1.5M receivable from the sale of Salero Ranch
- May 2008, decrease of the environmental account receivable from AMC and increase of the EPA trust fund to \$15.1M, (\$12.5M in principal and \$2.6M in interest)
- October 2008, collection of the liquidity note from AMC \$20.1M , \$17.6M in principal plus \$2.5M in interest
- November 2008 through 2011, collection of the \$1.5M per year receivable note from the sale of Tacoma

5 Year Financial Highlights

Year Ended December 31					
	2008	2009	2010	2011	2012
Average Copper Price	\$ 3.47	\$ 3.36	\$ 3.22	\$ 3.09	\$ 2.97
Mine Copper Production	444,061	428,156	443,768	433,797	512,362
Total Copper Sales	549,375	581,261	614,162	608,268	615,758
Total Copper Sales	2,119,869	2,177,271	2,209,898	2,108,222	2,063,302
Production Cost per lb Cu Produced					
Labor					
Materials	\$/lb 0.50	0.53	0.49	0.50	0.42
Other Expenses	\$/lb 0.71	0.73	0.67	0.65	0.54
	\$/lb 0.40	0.44	0.39	0.35	0.32
Total cost per Cu lb Produced	\$/lb 1.61	1.70	1.55	1.50	1.28
General and Administrative Expense	\$ 000 25,230	25,693	25,693	25,693	25,693
Operating Income (Loss)	\$ 000 723,675	638,877	649,040	614,120	809,065
Reorganization Expense	\$ 000 63,864	-	-	-	-
Net Income (Loss)	\$ 000 413,493	356,769	361,901	341,538	460,267
EBITDA	\$ 000 774,236	693,351	708,741	674,868	870,120
Cash and Cash Equivalents (incl. restricted cash)	\$ 000 1,506,534	498,504	864,282	1,240,695	1,731,619
Increase (Decrease) v Beg of Period	\$ 000 567,753	(1,008,030)	365,778	376,413	490,923
Accounts Receivable, Trade	\$ 000 141,703	145,151	147,327	140,548	137,553
Increase (Decrease) v Beg of Period	\$ 000 54,805	3,448	2,175	(6,778)	(2,995)
Inventory (including warehouse supplies)	\$ 000 287,916	295,373	282,536	267,315	271,925
Increase (Decrease) v Beg of Period	\$ 000 (31,785)	7,457	(12,837)	(15,221)	4,610
CAPEX	\$ 000 (128,801)	(155,100)	(71,511)	(56,713)	(46,026)

Key Assumptions – Prices

		Average Yearly Prices ⁽¹⁾				
		2008	2009	2010	2011	2012
Copper	(\$/lb)	3.47	3.36	3.22	3.09	2.97
Silver	(\$/oz)	17.50	18.03	18.43	18.82	19.27
Gold	(\$/oz)	929.47	955.30	980.20	1,011.70	1,047.50
Molybdenum	(\$/lb)	23.00	23.00	23.00	23.00	23.00
Selenium	(\$/lb)	30.00	30.00	30.00	30.00	30.00
Tellurium	(\$/lb)	45.00	45.00	45.00	45.00	45.00
Nickel	(\$/lb)	15.00	15.00	15.00	15.00	15.00
Sulfuric Acid	(\$/ton)	74.00	74.00	74.00	74.00	74.00

⁽¹⁾ Copper, Silver and Gold Price Based on LME Forward Curve as of 02/11/08

Key Assumptions – Premiums

Average Copper Products Premium

		2008	2009	2010	2011	2012
Copper Cathode (purchase)	(\$/lb)	0.0275	0.0275	0.0275	0.0275	0.0275
Copper Cathode (sale)	(\$/lb)	0.0644	0.0644	0.0600	0.0600	0.0600
SX-EW Copper	(\$/lb)	0.0225	0.0225	0.0225	0.0225	0.0225
Rod Copper	(\$/lb)	0.1139	0.1139	0.1150	0.1150	0.1150
Cake Copper	(\$/lb)	0.1351	0.1351	0.1275	0.1275	0.1275

Key Assumptions – Energy Prices

NO SALES TAX

Energy Price Projections: 2008 - 2012

Natural Gas \$/MMBtu or \$/Therm (see Notes 1)	2008	2009	2010	2011	2012
Hayden (\$/MMBtu)	\$ 7.24	\$ 6.87	\$ 6.79	\$ 6.92	\$ 7.13
Amarillo (\$/MMBtu)	\$ 7.47	\$ 7.08	\$ 6.98	\$ 7.11	\$ 7.34
Ray (\$/Therm)	\$ 1.06	\$ 1.03	\$ 1.01	\$ 1.02	\$ 1.05
Diesel \$/Gal (see Notes 2)					
Ray	\$ 2.87	\$ 2.74	\$ 2.78	\$ 2.74	\$ 2.70
Mission/Silver Bell	\$ 2.93	\$ 2.80	\$ 2.84	\$ 2.81	\$ 2.77
Unleaded \$/Gal (see Notes 3)					
Ray	\$ 3.02	\$ 2.89	\$ 2.92	\$ 2.88	\$ 2.84
Mission/Silver Bell	\$ 3.03	\$ 2.89	\$ 2.93	\$ 2.89	\$ 2.85
Electricity \$/kWh (see Notes 4)					
ASARCO Sub	\$ 0.0529	\$ 0.0517	\$ 0.0516	\$ 0.0523	\$ 0.0535
Knoll Sub	\$ 0.0537	\$ 0.0524	\$ 0.0523	\$ 0.0531	\$ 0.0542
Hayden Sub	\$ 0.0534	\$ 0.0522	\$ 0.0521	\$ 0.0529	\$ 0.0540
Morris Sub	\$ 0.0522	\$ 0.0510	\$ 0.0508	\$ 0.0516	\$ 0.0528
Ray Sub	\$ 0.0527	\$ 0.0514	\$ 0.0513	\$ 0.0521	\$ 0.0533
Mission/Silver Bell	\$ 0.0559	\$ 0.0592	\$ 0.0606	\$ 0.0614	\$ 0.0627
Amarillo	\$ 0.0473	\$ 0.0483	\$ 0.0481	\$ 0.0487	\$ 0.0496

* Price Projection as of 01/15/08

Key Assumptions – Energy Methodology Notes

Energy Price Projections Methodology Notes (prices DO NOT include sales tax)

(1) Natural Gas Notes:

2008 monthly and annual price forecasts and 2009 annual price and basis differentials from current EIA Short Term Energy Outlook (incl. NYMEX Clearport Basis Swap strip for next 12 mo.) Henry Hub adjusted annually from 2010-2012 based on % difference between EIA Long Term Energy Outlook Ngas price forecast and 2009 Marketer Premium escalated at 2% per year from 2008 to 2012

Prices include interstate/intrastate transportation, usage, and reservation charges

Ray Mine SW Gas service: Based on Monthly Gas Cost (NYMEX strips) + base rates increased by 1% per year for 2008+.

(2) Dyed Diesel Notes:

2008 forecast based on EIA WTI forecast + WTI to OPIs differential based on historical spreads for 2007

Monthly values applied to 2008 annual forecast as percentage of current EIA Short Term Energy Outlook, U.S. Retail Prices for Low Sulfur Diesel w/out taxes

2009 annual price estimate based on EIA Long Term forecast % difference between 2008 and forecast years for imported crude

2009+ annual forecasts based on EIA Long Term forecast % difference to 2008 as baseline

Prices include transportation charges

Prices include applicable federal taxes

(3) Unleaded Notes:

Unleaded prices forecast based on 2008+ Diesel price estimate plus \$0.015/gal

(4) Electricity Notes:

Ray/Hayden - Announced 11/2007 SRP E-65 rate and fuel factor used for 2008

2009+ base rates adjusted at 1% annually. Fuel factor charges correlated to future gas prices.

Each substation's respective interruptible credit (\$/kWh) calculated based on March 2005 (Winter) and May 2005 (summer) invoices as proxies for Summer/Winter usage

The E-65 Rate for each year is adjusted down by the amount of the interruptible credit. The credit is assumed fixed indefinitely.

Mission/Silver Bell - TEP prices assumed based on filed settlement agreement prices in effect for 2007 forward.

Silver Bell is not charged any sales tax due to tax exempt status

Amarillo -

Fuel factors applied based on gas prices for applicable 6-month period & stipulated adjustment for high voltage (lower losses) in current rate case

Monthly 2008 fuel factors (summer/winter) calculated based on average of monthly EIA estimates for natural gas.

Base rates raised in May 2007 per stipulated settlement. 2009+ prices applied with 1% inflation adjustor to base rates and fuel charge modulated as a percentage of the 2008 EIA price

Key Assumptions – Copper Hedge

- Hedging program – 48,150 Metric Tons of Cu protective puts at strike prices of \$2.00 and \$2.70/lb
- No Copper Hedge established beyond 2008
- 24% of 2008 copper production has been hedged as follows:

Program #2		Per month	1st Half 2008	Per month	2nd Half 2008	Y 08
Metric Tones		3,775	22,650	1,500	9,000	31,650
Strike Price	(\$/lb)	2.00		2.00		
Program #3						
Metric Tones		0	0	2,750	16,500	16,500
Strike Price	(\$/lb)	0		2.70		
Total Hedge	(mt)		22,650		25,500	48,150
W. Avg. Strike Price	(\$/lb)		2.00		2.45	2.24

Income Statement

(\$ 000's)

SALES

COST OF GOODS SOLD
SELLING EXPENSES
TOTAL COST OF SALES

GROSS INCOME (LOSS)

DEDUCTIONS

ADMINISTRATIVE EXPENSES
DEPRECIATION, DEPLETION AND AMORTIZATION

OPERATING INCOME (LOSS)

EBITDA

FINANCING COST, NET

INTEREST INCOME
INTEREST EXPENSE
BANKRUPTCY REORGANIZATION EXPENSE
TOTAL FINANCE COST, NET

INCOME (LOSS) BEFORE INCOME TAXES
AND MINORITY INTEREST

PROVISIONS FOR:

TOTAL INCOME TAX
INCOME (LOSS) BEFORE MINORITY INTEREST
MINORITY INTEREST
NET INCOME (LOSS)

	2008	2009	2010	2011	2012
SALES					
	2,119,869	2,177,271	2,209,898	2,108,222	2,063,302
COST OF GOODS SOLD	1,304,657	1,443,142	1,459,609	1,391,933	1,151,603
SELLING EXPENSES	15,745	15,085	15,855	15,728	15,887
TOTAL COST OF SALES	1,320,402	1,458,228	1,475,464	1,407,661	1,167,489
GROSS INCOME (LOSS)	799,467	719,043	734,434	700,561	895,813
DEDUCTIONS					
ADMINISTRATIVE EXPENSES	25,230	25,693	25,693	25,693	25,693
DEPRECIATION, DEPLETION AND AMORTIZATION	50,562	54,474	59,701	60,748	61,056
OPERATING INCOME (LOSS)	723,675	638,877	649,040	614,120	809,065
EBITDA	774,236	693,351	708,741	674,868	870,120
FINANCING COST, NET					
INTEREST INCOME	(48,568)	(5,994)	(3,800)	(3,800)	(3,800)
INTEREST EXPENSE	347	31,440	31,440	31,439	31,439
BANKRUPTCY REORGANIZATION EXPENSE	63,864	0	0	0	0
TOTAL FINANCE COST, NET	15,570	24,190	27,640	27,639	27,639
INCOME (LOSS) BEFORE INCOME TAXES AND MINORITY INTEREST	708,105	614,687	621,400	586,480	781,426
PROVISIONS FOR:					
TOTAL INCOME TAX	267,154	230,505	233,821	220,664	297,374
INCOME (LOSS) BEFORE MINORITY INTEREST	440,951	384,182	387,580	365,816	484,052
MINORITY INTEREST	27,457	27,412	25,679	24,278	23,785
NET INCOME (LOSS)	413,493	356,769	361,901	341,538	460,267

Sales Summary

	2008	2009	2010	2011	2012
Average Comex Price					
Copper	\$/lb. 3.47	3.36	3.22	3.09	2.97
Gold	\$/oz. 929.47	955.30	980.20	1,011.70	1,047.50
Silver	\$/oz. 17.50	18.03	18.43	18.82	19.27
Molybdenum	\$/lb. 23.00	23.00	23.00	23.00	23.00
Average Price Realized					
Copper	\$/lb. 3.56	3.46	3.31	3.19	3.07
Gold	\$/oz. 862.28	955.30	980.20	1,011.70	1,047.50
Silver	\$/oz. 16.95	18.03	18.43	18.82	19.27
Molybdenum	\$/lb. 16.63	18.00	18.00	18.00	18.00
Quantities sold					
Copper	000's lbs 549,375	581,261	614,162	608,268	615,758
Gold	ounces 24,921	23,719	24,376	24,481	24,157
Silver	ounces 5,793,872	5,425,273	5,669,731	5,584,731	5,796,394
Molybdenum	lbs. 431,468	1,210,300	888,015	697,372	826,925
Sales					
Copper	(\$ 000) 1,956,362	2,008,433	2,035,687	1,938,021	1,890,087
Gold	21,489	22,659	23,893	24,767	25,304
Silver	98,195	97,791	104,504	105,099	111,714
Molybdenum	7,176	21,785	15,984	12,553	14,885
Amarillo by-products	6,630	6,854	7,327	7,228	7,461
Toll margins	20,630	17,378	20,130	18,181	11,479
CBRY	2,343	2,372	2,372	2,372	2,372
Total:	2,119,869	2,177,271	2,209,898	2,108,222	2,063,302

Cost of Sales - Detail

	2008	2009	2010	2011	2012
BEGINNING INVENTORY					
(\$ 000)	267,575	235,300	238,274	227,836	215,519
TOTAL	224,127	224,843	218,048	216,655	215,203
MATERIALS					
FUEL	87,096	81,389	80,293	74,588	74,885
REAGENTS NET	18,233	22,754	13,609	15,393	10,769
REPAIR MATERIAL	110,774	109,633	102,869	96,554	96,558
OTHER MATERIALS	99,158	97,280	99,764	96,954	94,973
TOTAL	315,261	311,056	296,535	283,489	277,185
OTHER EXPENSES					
ELECTRICAL ENERGY	62,366	63,512	62,688	62,739	66,155
INSURANCE	4,094	3,636	3,637	3,637	3,636
OTHER EXPENSES (1)	110,010	123,357	107,600	84,083	96,126
TOTAL	176,469	190,505	173,925	150,460	165,917
SUBTOTAL	715,857	726,404	688,508	650,604	658,305
STANDBY AND CLOSED PLANTS COST (2)					
IMPAIRMENT (FAS 121 & 143)	10,345	2,485	2,485	2,485	2,485
OTHER (3)	5,049	5,639	6,313	7,081	7,956
PURCHASED MINERALS FROM 3RD PARTIES	32,130	25,661	25,482	21,307	22,804
ENVIRONMENTAL	504,617	683,498	723,953	695,709	459,845
	4,384	2,431	2,431	2,431	3,931
SUBTOTAL	1,272,382	1,446,117	1,449,170	1,379,616	1,155,326
ENDING INVENTORY	235,300	238,274	227,836	215,519	219,243
COST OF GOODS SOLD	1,304,657	1,443,142	1,459,609	1,391,933	1,151,603
SELLING EXPENSES	15,745	15,085	15,855	15,728	15,887
TOTAL COST OF SALES	1,320,402	1,458,228	1,475,464	1,407,661	1,167,489

Cost of Sales (cont'd)

	2008	2009	2010	2011	2012
(1) OTHER EXPENSES					
ROYALTIES	27,810	47,981	32,691	11,168	22,429
TAXES	36,956	36,891	36,783	35,341	36,477
LEGAL	1,370	1,374	1,376	1,376	1,379
LEASE EXPENSE	7,584	1,671	1,520	1,346	459
CBRY (ore to Hayden Conc.)	722	686	729	660	728
OTHER COSTS	35,568	34,756	34,500	34,192	34,652
TOTAL	110,010	123,357	107,600	84,083	96,126
(\$ 000)					
(2) STANDBY PLANTS COST					
BLACK CLOUD	483	115	115	115	115
ELPASO	6,017	1,588	1,588	1,588	1,588
EAST HELENA	2,532	719	719	719	719
GLOBE	1,313	62	62	62	62
TOTAL	10,345	2,485	2,485	2,485	2,485
(\$ 000)					
(3) OTHER COST					
EXPLORATION	4,222	6,723	5,073	1,972	1,522
(INCR.) OR DECR. IN OPTIONS VALUE	8,252	0	0	0	0
SILVER BELL MANAGEMENT FEE	3,108	2,974	2,976	2,938	2,752
INTERPLANT FREIGHT	16,134	15,177	16,797	15,754	18,119
OTHER	415	787	636	644	411
TOTAL	32,130	25,661	25,482	21,307	22,804
(\$ 000)					

Statement of Cash Flow

	2008	2009	2010	2011	2012
	(\$ 000)				
OPERATING ACTIVITIES					
NET INCOME (LOSS)	413,493	356,769	361,901	341,538	460,267
Adjustments to reconcile net earnings (loss) to net cash provided from (used for) operating activities:					
Depreciation, depletion and amortization	50,562	54,474	59,701	60,748	61,056
Provision (benefit) for deferred income taxes	0	0	0	0	0
Net (Gain) loss on assets dispositions and impairments	0	0	0	0	0
(Gain) loss on sale of other investments	0	0	0	0	0
Special items	0	0	0	0	0
Increase (Decrease) in Reserves for closed plants and Env. Matters	(63,449)	(10,651)	(13,294)	6,081	7,956
Minority interests	27,457	27,412	25,679	24,278	23,785
Resources provided from (consumed by) operating results	428,064	428,005	433,986	432,645	553,063
(Increase) Decrease in Accounts receivable	(54,805)	(3,448)	(2,175)	6,778	2,995
(Increase) Decrease in Inventories	31,785	(7,457)	12,837	15,221	(4,610)
Increase (Decrease) in Accounts payable and accrued liabilities	4,710	3,978	(4,152)	(4,900)	1,481
Increase (Decrease) in Accounts Receivable-Intercompany	789	17,813	13,667	0	0
Increase (Decrease) in Accounts Payable-Intercompany	0	0	0	0	0
Increase (Decrease) in Accounts Receivable-Other Current	11,980	2,138	6,580	1,099	0
Increase (Decrease) in Accounts Payable-Other Current	0	0	0	0	0
Increase (Decrease) in Taxes Payable-Current	267,154	0	0	0	0
Increase (Decrease) in Other operating assets and liabilities	35,297	14,779	3,000	7,400	8,100
Foreign currency transaction (gain) losses	0	0	0	0	0
Resources provided by (used for) working capital	296,910	27,803	29,756	25,598	7,966
Resources provided by (used for) operating activities	724,974	455,807	463,742	458,243	561,029

Statement of Cash Flow (cont'd)

STATEMENT OF CASH FLOW (\$ 000) CONT'D

	2008	2009	2010	2011	2012
INVESTING ACTIVITIES					
Additions to property, plant and equipment	(128,801)	(155,100)	(71,511)	(56,713)	(46,026)
Proceeds from retirements and assets sold	0	743	0	0	0
Discontinued Operations	0	0	0	0	0
Effect of exchange rate changes on cash	0	0	0	0	0
Purchase cost of hedge	0	0	0	0	0
Proceeds (purchase) of securities and investments	0	0	0	0	0
Resources provided by (used for) Investments	(128,801)	(154,356)	(71,511)	(56,713)	(46,026)
FINANCING ACTIVITIES					
Debt incurred, net of amortization	0	0	0	0	0
Capital contributions	0	0	0	0	0
Cash Out on Reorganization	0	(1,281,167)	0	0	0
Other Proceeds (Disbursements) related to financial activities	(28,420)	(28,314)	(26,453)	(25,117)	(24,080)
Resources provided by (used for) financing activities	(28,420)	(1,309,481)	(26,453)	(25,117)	(24,080)
Increase (decrease) in cash and cash equivalents	567,753	(1,008,030)	365,778	376,413	490,923
Balance of cash and cash equivalents at beginning of period	938,781	1,506,534	498,504	864,282	1,240,695
Balance of cash and cash equivalents at end of period	1,506,534	498,504	864,282	1,240,695	1,731,619

Breakeven Cost of Production (Total Cost)

	2008	2009	2010	2011	2012
PRODUCTION COST					
Production Cost		715,857	726,404	688,508	650,604
Purchased metal from 3rd parties		504,617	683,498	723,953	695,709
Change in inventory		32,275	(2,975)	10,439	12,317
Other Cost of Sales		8,571	9,400	9,925	10,662
Cost of Goods Sold		1,261,321	1,416,327	1,432,824	1,369,292
Interplant Freight		16,134	15,177	16,797	15,754
Delivery Freight		15,745	15,085	15,855	15,728
Hedge Adjustment (Gain)/Loss		8,252	0	0	0
General & Administrative Cost		25,230	25,693	25,693	25,693
Exploration		4,222	6,723	5,073	1,972
Environmental and Closed Plant Charges		4,384	2,431	2,431	2,431
Standby plant Costs		10,345	2,485	2,485	2,485
Total Costs before Depreciation and Depletion		1,345,632	1,483,921	1,501,157	1,433,354
Depreciation & Depletion		50,562	54,474	59,701	60,748
Total Cost		1,396,194	1,538,394	1,560,857	1,494,102
Production Cost ⁽¹⁾		800,488	803,397	766,765	725,328
By-Product Credits					
Gold		23,780	9,997	20,387	8,084
Silver		(36,481)	(30,801)	(33,940)	(34,652)
Molybdenum		(7,176)	(21,785)	(15,984)	(12,553)
Copper Refined Products		(53,652)	(41,181)	(42,705)	(42,093)
Other		(11,475)	(5,773)	(6,246)	(6,148)
Total By Product Credits		(85,003)	(89,543)	(78,489)	(87,362)
Net Production Cost ⁽¹⁾		715,485	713,855	688,277	637,966

⁽¹⁾ Excludes Purchased Metals, Inventory change, Hedge (Gain) / Loss, and Depreciation

Breakeven Cost of Production (Unit Cost)

CBEP IN TERMS OF CU PRODUCED

	2008	2009	2010	2011	2012
Mine Production					
LBS Sold	(000 lbs) 444,061	428,156	443,768	433,797	512,362
	(000 lbs) 549,375	581,261	614,162	608,268	615,758
Production Cost	(\$/lb) 1.61	1.70	1.55	1.50	1.28
Other Cost of Sales	0.02	0.02	0.02	0.02	0.02
Cost of Goods Sold	1.63	1.72	1.57	1.52	1.31
Interplant Freight	(\$/lb) 0.04	0.04	0.04	0.04	0.04
Delivery Freight	0.04	0.04	0.04	0.04	0.03
General & Administrative Cost	0.06	0.06	0.06	0.06	0.05
Exploration	0.01	0.02	0.01	0.00	0.00
Environmental and Closed Plant Charges	0.01	0.01	0.01	0.01	0.01
Standby plant Costs	0.02	0.01	0.01	0.01	0.00
Total Costs before Depreciation and Depletion	1.80	1.88	1.73	1.67	1.44

By-Product Credits

Gold	(\$/lb) 0.05	0.02	0.05	0.02	(0.02)
Silver	(0.08)	(0.07)	(0.08)	(0.08)	(0.09)
Molybdenum	(0.02)	(0.05)	(0.04)	(0.03)	(0.03)
Premium on Copper Refined Products	(0.12)	(0.10)	(0.10)	(0.10)	(0.10)
Other	(0.03)	(0.01)	(0.01)	(0.01)	(0.01)
Total By Product Credits	(0.19)	(0.21)	(0.18)	(0.20)	(0.25)
Net Production Cost ⁽¹⁾	1.61	1.67	1.55	1.47	1.19

⁽¹⁾ Excludes Purchased Metals, Inventory change, Hedge (Gain) / Loss, and Depreciation

Statement of Working Capital

WORKING CAPITAL (\$ million)	2008	2009	2010	2011	2012
CURRENT ASSETS:					
Accounts and Notes receivable:					
Third Parties (Trade)	141.70	145.15	147.33	140.55	137.55
Related Parties (Intercompany)	36.48	18.67	5.01	5.01	5.01
Other Current Assets	22.31	20.17	13.59	12.49	12.49
Total accounts and notes receivable	200.49	183.99	165.92	158.04	155.05
Inventories of principle and secondary metals and byproducts	235.30	238.27	227.84	215.52	219.24
Materials and Supplies	52.62	57.10	54.70	51.80	52.68
Prepaid expenses	3.20	2.47	2.47	2.47	2.47
Total current assets	491.61	481.83	450.92	427.83	429.44
Net change in current assets	18.42	(9.78)	(30.91)	(23.10)	1.62
Net change in current portion of long term assets	(37.43)	(13.25)	0.00	0.00	0.00
Increase or (Decrease) on Assets	(19.02)	(23.02)	(30.91)	(23.10)	1.62
CURRENT LIABILITIES:					
Accounts payable:					
Third Parties (Trade)	90.81	94.78	90.63	85.73	87.21
Total current liabilities	90.81	94.78	90.63	85.73	87.21
Increase or (Decrease) on Liabilities	8.72	3.98	(4.15)	(4.90)	1.48
Net Change in Working Capital - Use / (Source) of Cash	(27.73)	(27.00)	(26.76)	(18.20)	0.13

Sensitivity Analysis

Base Case (LME Fwd.curve 02/11/08)

(\$ Million)	Average Copper Price (\$/lb)					Net Revenue				
	2008	2009	2010	2011	2012	2008	2009	2010	2011	2012
Base Case	3.47	3.36	3.22	3.09	2.97	2,119.87	2,177.27	2,209.90	2,108.22	2,063.30
50 cts. Increase	3.97	3.86	3.72	3.59	3.47	2,365.29	2,467.90	2,516.98	2,412.36	2,371.18
20 cts. Increase	3.67	3.56	3.42	3.29	3.17	2,218.04	2,293.52	2,332.73	2,229.88	2,186.45
10 cts. Increase	3.57	3.46	3.32	3.19	3.07	2,168.95	2,235.40	2,271.31	2,169.05	2,124.88
10 cts. Decrease	3.37	3.26	3.12	2.99	2.87	2,070.78	2,119.15	2,148.48	2,047.39	2,001.73
20 cts. Decrease	3.27	3.16	3.02	2.89	2.77	2,021.70	2,061.02	2,087.07	1,986.57	1,940.15
30 cts. Decrease	3.17	3.06	2.92	2.79	2.67	1,972.61	2,002.89	2,025.65	1,925.74	1,878.57
40 cts. Decrease	3.07	2.96	2.82	2.69	2.57	1,923.53	1,944.77	1,964.23	1,864.91	1,817.00
50 cts. Decrease	2.97	2.86	2.72	2.59	2.47	1,874.44	1,886.64	1,902.82	1,804.09	1,755.42
75 cts. Decrease	2.72	2.61	2.47	2.34	2.22	1,751.85	1,741.33	1,749.28	1,652.02	1,601.48
100 cts. Decrease	2.47	2.36	2.22	2.09	1.97	1,637.36	1,596.01	1,595.74	1,499.95	1,447.75
125 cts. Decrease	2.22	2.11	1.97	1.84	1.72	1,524.10	1,450.70	1,442.44	1,349.21	1,295.89

(\$ Million)	COGS					EBITDA				
	2008	2009	2010	2011	2012	2008	2009	2010	2011	2012
Base Case	1,396.19	1,538.39	1,560.86	1,494.10	1,254.24	774.24	693.35	708.74	674.87	870.12
50 cts. Increase	1,455.57	1,628.71	1,658.54	1,592.82	1,321.18	960.29	893.67	918.14	880.28	1,111.05
20 cts. Increase	1,419.74	1,574.52	1,599.93	1,533.59	1,281.13	848.86	773.48	792.50	757.03	966.38
10 cts. Increase	1,407.91	1,556.46	1,580.39	1,513.85	1,267.78	811.61	733.41	750.62	715.95	918.15
10 cts. Decrease	1,384.61	1,520.33	1,541.32	1,474.16	1,241.08	736.73	653.29	666.86	633.98	821.70
20 cts. Decrease	1,373.18	1,502.27	1,521.78	1,454.62	1,227.93	699.08	613.22	624.98	592.70	773.28
30 cts. Decrease	1,361.92	1,484.21	1,502.04	1,435.07	1,214.77	661.25	573.16	583.31	551.42	724.86
40 cts. Decrease	1,350.87	1,465.94	1,482.71	1,415.53	1,201.62	623.22	533.30	541.22	510.14	676.44
50 cts. Decrease	1,339.88	1,448.08	1,463.37	1,395.98	1,188.46	585.12	493.03	499.14	468.86	628.02
75 cts. Decrease	1,314.34	1,403.86	1,414.63	1,347.52	1,155.96	488.07	391.94	394.34	365.25	506.58
100 cts. Decrease	1,291.90	1,358.81	1,366.70	1,298.26	1,123.07	396.02	291.67	288.74	262.45	385.73
125 cts. Decrease	1,272.94	1,314.59	1,318.36	1,250.59	1,091.36	301.72	190.58	183.78	159.37	265.59

Sensitivity Analysis (cont'd)

(\$ Million)	Net Income				Increase (Decrease) in Cash					
	2008	2009	2010	2011	2012	2008	2009	2010	2011	2012
Base Case	413.49	356.77	361.90	341.54	460.27	567.75	273.14	365.78	376.41	490.92
50 cts. Increase	523.11	474.75	485.40	462.61	602.91	726.55	371.74	488.18	497.69	633.32
20 cts. Increase	457.46	403.96	411.30	389.97	517.25	631.19	312.58	414.74	424.92	547.81
10 cts. Increase	435.51	380.37	386.60	365.75	488.70	599.47	292.86	390.26	400.67	519.31
10 cts. Decrease	391.39	333.17	337.20	317.44	431.60	536.03	253.42	341.30	352.28	462.30
20 cts. Decrease	369.20	309.58	312.50	293.11	402.93	504.31	233.70	316.82	327.90	433.68
30 cts. Decrease	346.90	285.98	287.93	268.77	374.26	472.59	213.98	292.46	303.53	405.06
40 cts. Decrease	324.48	262.51	263.11	244.43	345.58	440.87	194.38	267.86	279.15	376.44
50 cts. Decrease	302.01	238.79	238.28	220.10	316.91	409.32	174.53	243.26	254.78	347.82
75 cts. Decrease	244.76	179.23	176.48	159.02	245.00	329.83	124.66	182.00	193.60	276.03
100 cts. Decrease	190.54	120.18	114.18	98.42	173.45	256.78	75.30	120.25	132.90	204.59
125 cts. Decrease	134.96	60.62	52.27	37.66	102.33	185.39	25.43	58.88	71.97	133.54

	Net Production Cost (\$/lb)				Cash Break Even Point (\$/lb)					
	2008	2009	2010	2011	2012	2008	2009	2010	2011	2012
Base Case	1.51	1.71	1.44	1.32	1.43	2.43	2.89	2.62	2.47	2.17
50 cts. Increase	1.56	1.90	1.59	1.47	1.60	2.58	3.22	2.92	2.77	2.44
20 cts. Increase	1.53	1.78	1.50	1.38	1.49	2.49	3.02	2.74	2.59	2.28
10 cts. Increase	1.52	1.75	1.47	1.35	1.46	2.46	2.95	2.68	2.53	2.23
10 cts. Decrease	1.50	1.67	1.41	1.30	1.39	2.39	2.82	2.56	2.41	2.12
20 cts. Decrease	1.49	1.64	1.38	1.27	1.36	2.36	2.75	2.50	2.35	2.07
30 cts. Decrease	1.48	1.60	1.35	1.24	1.33	2.33	2.69	2.44	2.29	2.01
40 cts. Decrease	1.46	1.56	1.32	1.21	1.29	2.30	2.62	2.38	2.23	1.96
50 cts. Decrease	1.45	1.53	1.29	1.18	1.26	2.27	2.56	2.32	2.17	1.91
75 cts. Decrease	1.43	1.44	1.22	1.11	1.18	2.19	2.39	2.17	2.02	1.77
100 cts. Decrease	1.39	1.34	1.14	1.03	1.09	2.10	2.23	2.02	1.87	1.64
125 cts. Decrease	1.35	1.25	1.07	0.96	1.01	2.01	2.06	1.87	1.72	1.50

**EXHIBIT M
TO THE DISCLOSURE STATEMENT**

New Plan Sponsor PSA for the Debtors' Plan

[for exhibits to the Purchase and Sale Agreement, please see www.asarcoreorg.com]

EXECUTION VERSION

**SETTLEMENT
AND
PURCHASE AND SALE
AGREEMENT
AMONG
ASARCO LLC,
AR SILVER BELL, INC.,
COPPER BASIN RAILWAY, INC.,
ASARCO SANTA CRUZ, INC.,
STERLITE (USA), INC.
AND
STERLITE INDUSTRIES (INDIA) LTD**

Dated as of March 6, 2009

TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS	2
1.1 <i>Certain Definitions</i>	2
1.2 <i>Other Terms</i>	18
1.3 <i>Certain Rules of Construction</i>	18
ARTICLE II SETTLEMENT AND RELEASE	18
2.1 <i>Settlement and Release</i>	18
2.2 <i>Bankruptcy Court Approval of Settlement and Release</i>	19
2.3 <i>Reservation of Rights</i>	20
ARTICLE III SALE AND PURCHASE OF THE PURCHASED ASSETS	20
3.1 <i>Purchased Assets</i>	20
3.2 <i>Excluded Assets</i>	23
3.3 <i>Assumed Liabilities</i>	25
3.4 <i>Retained Liabilities</i>	26
3.5 <i>Contract Designation Rights</i>	27
3.6 <i>Silver Bell</i>	28
ARTICLE IV PURCHASE PRICE AND PAYMENT	28
4.1 <i>Purchase Price</i>	28
4.2 <i>Deposit</i>	28
4.3 <i>Purchase Price Adjustment</i>	31
4.4 <i>Dispute Resolution</i>	31
4.5 <i>Allocation of Purchase Price</i>	32
ARTICLE V CLOSING	32
5.1 <i>Time and Place of Closing</i>	32
5.2 <i>Items to Be Delivered by Sellers</i>	33
5.3 <i>Items to Be Delivered by Purchaser</i>	34
ARTICLE VI REPRESENTATIONS AND WARRANTIES OF SELLERS	35
6.1 <i>Organization and Good Standing</i>	35
6.2 <i>Authorization of Agreement</i>	36
6.3 <i>No Violation; Consents</i>	36
6.4 <i>Financial Information</i>	37
6.5 <i>Compliance with Laws; Permits</i>	37
6.6 <i>Sufficiency of Purchased Assets</i>	37
6.7 <i>Purchased Real Property</i>	37
6.8 <i>Material Contracts</i>	38
6.9 <i>Suppliers</i>	39
6.10 <i>Employee Benefit Matters</i>	39
6.11 <i>Environmental Matters</i>	39
6.12 <i>Labor Matters</i>	40
6.13 <i>Taxes</i>	41
6.14 <i>Insurance</i>	41
6.15 <i>Financial Advisors</i>	41

ARTICLE VII REPRESENTATIONS AND WARRANTIES OF PURCHASER AND		
GUARANTOR		42
7.1	<i>Organization and Good Standing</i>	42
7.2	<i>Authorization of Agreement</i>	42
7.3	<i>No Violation; Consents</i>	42
7.4	<i>Litigation.....</i>	43
7.5	<i>Investment Intention.....</i>	43
7.6	<i>Financial Capability.....</i>	43
7.7	<i>Bankruptcy.....</i>	43
7.8	<i>Financial Advisors</i>	43
7.9	<i>Subsequent Sales.....</i>	43
ARTICLE VIII COVENANTS.....		44
8.1	<i>Access to Information</i>	44
8.2	<i>Conduct of the Business Pending the Closing</i>	44
8.3	<i>Cooperation; Consents and Filings</i>	46
8.4	<i>Preservation of Records.....</i>	47
8.5	<i>Confidentiality.....</i>	48
8.6	<i>Public Announcements.....</i>	48
8.7	<i>Bankruptcy Matters.....</i>	48
8.8	<i>Title Insurance</i>	49
8.9	<i>Bonds and Assurances</i>	50
8.10	<i>Solicitation Provisions; Matching Right; Back-Up Bid Option</i>	50
8.11	<i>Risk of Loss; Casualty Loss</i>	53
8.12	<i>Further Assurances.....</i>	53
8.13	<i>Payments and Proceeds.....</i>	53
8.14	<i>Transition Services Agreement</i>	54
ARTICLE IX EMPLOYEES AND EMPLOYEE BENEFITS		54
9.1	<i>Employment.....</i>	54
9.2	<i>Terms of Continued Employment.....</i>	55
9.3	<i>Assumption of Plans.....</i>	55
9.4	<i>Service Credit.....</i>	56
9.5	<i>Vacation and Leave.....</i>	56
9.6	<i>Welfare Benefit Plans; Workers' Compensation; Other Benefits.....</i>	56
9.7	<i>OSHA Medical Records; Other Records; Payroll Deductions</i>	57
9.8	<i>Announcement.....</i>	57
9.9	<i>Warn Act</i>	57
ARTICLE X TAX MATTERS		58
10.1	<i>Transaction Taxes</i>	58
10.2	<i>Tax Prorations</i>	58
10.3	<i>Tax Refunds.....</i>	59
ARTICLE XI CONDITIONS TO CLOSING		59
11.1	<i>Conditions Precedent to Obligations of Each Party.....</i>	59
11.2	<i>Conditions Precedent to Obligations of Purchaser and Guarantor</i>	60
11.3	<i>Conditions Precedent to Obligations of Sellers.....</i>	60
ARTICLE XII LIMITATIONS		61
12.1	<i>Purchaser's Review</i>	61

12.2	<i>"As-Is"; Sale</i>	61
12.3	<i>Waivers and Releases</i>	62
12.4	<i>Acceptance and Discharge</i>	64
12.5	<i>No Consequential or Punitive Damages</i>	64
ARTICLE XIII TERMINATION		64
13.1	<i>Termination of Agreement</i>	64
13.2	<i>Effect of Termination</i>	66
ARTICLE XIV GUARANTEE		68
14.1	<i>Guarantee</i>	68
14.2	<i>Limitation</i>	70
ARTICLE XV MISCELLANEOUS.....		71
15.1	<i>Nonsurvival of Representations, Warranties and Covenants</i>	71
15.2	<i>Remedies</i>	71
15.3	<i>Bankruptcy Court Approval</i>	71
15.4	<i>Expenses</i>	71
15.5	<i>Disclosure Schedules</i>	72
15.6	<i>Governing Law</i>	72
15.7	<i>Submission to Jurisdiction; Consent to Service of Process</i>	72
15.8	<i>Waiver of Jury Trial</i>	73
15.9	<i>No Right of Set-Off</i>	73
15.10	<i>Time of Essence</i>	73
15.11	<i>Entire Agreement; Amendments and Waivers</i>	73
15.12	<i>Table of Contents and Headings</i>	74
15.13	<i>Notices</i>	74
15.14	<i>Severability</i>	75
15.15	<i>Binding Effect; Assignment</i>	75
15.16	<i>No Third-Party Beneficiaries</i>	76
15.17	<i>Counterparts</i>	76

Exhibits

<u>Exhibit A</u>	Form of Assignment and Assumption Agreement
<u>Exhibit B</u>	Form of Bill of Sale
<u>Exhibit C-1</u>	Purchaser Opinion
<u>Exhibit C-2</u>	Guarantor Opinion
<u>Exhibit D</u>	Form of Purchaser Promissory Note
<u>Exhibit E</u>	Closing Accounts Statement Principles and Illustration
<u>Exhibit F-1 through</u>	
<u>Exhibit F-4</u>	Forms of Deeds
<u>Exhibit G</u>	Form of Leasehold Deed
<u>Exhibit H</u>	Form of Assignment and Assumption of Ground Lease Agreement
<u>Exhibit I</u>	Form of Patent Assignment
<u>Exhibit J</u>	Form of Trademark Assignment
<u>Exhibit K</u>	Services to be Included in Transition Services Agreement
<u>Exhibit L</u>	Form of Security Agreement
<u>Exhibit M-1</u>	Form of Sterlite Settlement Motion

<u>Exhibit M-2</u>	Form of Sterlite Agreed Order
<u>Exhibit N-1</u>	Form of Mortgage (Texas)
<u>Exhibit N-2</u>	Form of Mortgage (Arizona)
<u>Exhibit O-1</u>	First L/C
<u>Exhibit O-2</u>	Second L/C
<u>Exhibit O-3</u>	Form of Third L/C
<u>Exhibit P</u>	Environmental Claimants

Seller Disclosure Schedule

<u>Section 1.1A</u>	Permitted Liens
<u>Section 1.1B</u>	Sellers' Knowledge
<u>Section 3.1(b)</u>	Machinery and Equipment
<u>Section 3.1(c)</u>	Purchased Real Property
<u>Section 3.1(e)(i)</u>	Leases of Real Property (ASARCO as Lessee)
<u>Section 3.1(e)(ii)</u>	Leases of Personal Property
<u>Section 3.1(e)(viii)</u>	Insurance Policies
<u>Section 3.1(e)(xiii)</u>	Real Property Leases (ASARCO as Lessor)
<u>Section 3.1(e)(xiv)</u>	Royalty Agreements
<u>Section 3.1(e)(xv)</u>	Other Contracts
<u>Section 3.1(g)</u>	Motor Vehicles
<u>Section 3.1(j)</u>	Patents
<u>Section 3.1(k)</u>	Trademarks
<u>Section 3.1(m)</u>	Permits
<u>Section 3.1(o)</u>	Patented and Unpatented Mining Claims
<u>Section 3.1(p)</u>	Adversary Proceedings
<u>Section 3.2(c)</u>	Equity Securities
<u>Section 3.2(e)</u>	Retained Proceedings
<u>Section 3.2(g)</u>	Retained Real Property
<u>Section 3.2(j)</u>	Retained Contracts
<u>Section 3.2(n)</u>	Retained Adversary Proceedings
<u>Section 3.5(a)</u>	Assumed Contracts
<u>Section 6.3(a)</u>	Sellers Consents
<u>Section 6.3(b)</u>	Governmental Approvals
<u>Section 6.4</u>	Financial Information
<u>Section 6.5</u>	Compliance with Laws
<u>Section 6.7</u>	Purchased Real Property
<u>Section 6.8(a)</u>	Material Contracts
<u>Section 6.9</u>	Suppliers
<u>Section 6.10(a)</u>	Employee Benefit Plans
<u>Section 6.10(b)</u>	Pension Plans
<u>Section 6.10(d)</u>	Litigation Regarding Employee Benefit Plans
<u>Section 6.11</u>	Environmental Matters
<u>Section 6.12(a)</u>	Labor Matters
<u>Section 6.12(b)</u>	Labor Matters

<u>Section 6.12(c)</u>	Labor Matters
<u>Section 6.13</u>	Taxes
<u>Section 6.14</u>	Insurance
<u>Section 8.2</u>	Conduct of Business
<u>Section 8.9</u>	Bonds and Assurances
<u>Section 9.2(b)</u>	Severance Benefits
<u>Section 9.3</u>	Assumed Benefit Plans
<u>Section 9.9</u>	WARN Act
<u>Section 11.3</u>	Unions

SETTLEMENT AND PURCHASE AND SALE AGREEMENT

This SETTLEMENT AND PURCHASE AND SALE AGREEMENT (the "*Agreement*"), dated as of March 6, 2009 (the "*Effective Date*"), is entered into by and among ASARCO LLC, a Delaware limited liability company ("*ASARCO*"); AR Silver Bell, Inc., a Delaware corporation ("*ARSB*"); Copper Basin Railway, Inc., a Delaware corporation ("*CBRI*"); and ASARCO Santa Cruz, Inc., a Delaware corporation ("*Santa Cruz*", together with ARSB and CBRI, "*Non-Debtor Sellers*"; ASARCO and Non-Debtor Sellers collectively referred to herein as "*Sellers*", and each individually, a "*Seller*"; and Sterlite (USA), Inc., a Delaware corporation ("*Purchaser*"); and Sterlite Industries (India) Ltd, an Indian limited liability company ("*Guarantor*").

WITNESSETH:

WHEREAS, ASARCO filed its voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "*Bankruptcy Code*") on August 9, 2005;

WHEREAS, ASARCO owns 100% of the Equity Securities (as defined below) of each of the Non-Debtor Sellers;

WHEREAS, the assets and liabilities of ASARCO are subject to the supervision and control of ASARCO as debtor-in-possession subject and pursuant to the jurisdiction of the Bankruptcy Court (as defined below);

WHEREAS, Sellers have determined that a prompt sale of the Purchased Assets (as defined below) is necessary in order to preserve the value inherent in the Purchased Assets ultimately available to the creditors of ASARCO;

WHEREAS, Sellers, Purchaser and Guarantor entered into that certain Purchase and Sale Agreement, dated as of May 30, 2008 (the "*Original PSA*"), for the prompt sale of the Purchased Assets by Sellers to Purchaser and such Original PSA was terminated by Sellers on October 22, 2008;

WHEREAS, notwithstanding the termination of the Original PSA, pursuant to Sections 363, 105(a) and 1123(a)(5)(D) of the Bankruptcy Code and the applicable Federal Rules of Bankruptcy Procedure, Sellers desire to sell to Purchaser, and Purchaser desires to purchase from Sellers, the Purchased Assets on the terms and subject to the conditions contained in this Agreement; and

WHEREAS, in connection with the transactions contemplated hereby, Purchaser has delivered to Sellers the Purchaser Opinion (as defined below) and Guarantor has delivered the Guarantor Opinion (as defined below).

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I DEFINITIONS

1.1 *Certain Definitions.* For purposes of this Agreement, the following terms shall have the meanings specified in this Section 1.1:

"Acquisition Proposal" 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 Purchased 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 this Agreement. For the avoidance of doubt, an Acquisition Proposal does not include a proposal or offer for a Stand-Alone Plan.

"Adjustment Amount" means, as of the date that a binding determination of the Closing Accounts Amount has been made in accordance with Section 4.4, the product of (a) 1.6 multiplied by (b) Agreed Working Capital minus the Closing Accounts Amount. In all cases, the Adjustment Amount shall be expressed as a positive number.

"Affiliate" (and, with a correlative meaning **"affiliated"**) means, with respect to any Person, (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).

"Agreed Working Capital" means an amount equal to \$253,000,000.00.

"Agreement" shall have the meaning set forth in the preamble hereto.

"Allocation" shall have the meaning set forth in Section 4.5.

"Ancillary Agreements" 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, the Security Agreement and the other documents to be delivered in connection therewith, Purchaser Promissory Note and the Assignment and Assumption of Ground Lease Agreement.

"Applicable Law" means, with respect to any Person, any Law applicable to such Person or its business, properties or assets.

"ARSB" shall have the meaning set forth in the preamble hereto.

"ASARCO" shall have the meaning set forth in the preamble hereto.

"Asbestos Committee" means the official committee of unsecured creditors appointed for the Lac d'Amiante du Québec Ltée (f/k/a Lake Asbestos of Quebec, Ltd.), Lake Asbestos of Quebec, Ltd., LAQ Canada, Ltd., CAPCO Pipe Company, Inc. (f/k/a Cement Asbestos Products Company) and Cement Asbestos Products Company cases.

"Asbestos 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 demands against ASARCO or any of its affiliated debtors but have not presently done so.

"Asset Retirement Obligations" means those obligations associated with the retirement of tangible long-lived assets and the associated asset retirement costs.

"Assignment and Assumption Agreement" means an Assignment and Assumption Agreement among Sellers and Purchaser, dated as of the Closing Date, substantially in the form of Exhibit A hereto.

"Assignment and Assumption of Ground Lease Agreement" shall have the meaning set forth in Section 5.2(d).

"Assumed Contracts" shall have the meaning set forth in Section 3.1(e).

"Assumed Environmental Liabilities" shall have the meaning set forth in Section 3.3(e).

"Assumed Liabilities" shall have the meaning set forth in Section 3.3.

"Assumed Pre-Petition Contracts" shall have the meaning set forth in Section 3.1(e).

"Assumption-Pending Pre-Petition Contracts" shall have the meaning set forth in Section 3.5(a).

"Back-Up Bid Agreement" shall have the meaning set forth in Section 8.10(f).

"Back-Up Bid Option" shall have the meaning set forth in Section 8.10(f).

"Bankruptcy Cases" means the chapter 11 cases commenced by ASARCO and its affiliated debtors on or after August 9, 2005 (including any case commenced after the date of this Agreement), jointly administered under Case No. 05-21207, but excluding the chapter 11 case commenced by Encycle/Texas, Inc which was converted to a chapter 7 case.

"Bankruptcy Code" shall have the meaning set forth in the recitals hereto.

"Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of Texas, Corpus Christi Division or any other court having jurisdiction over the Bankruptcy Cases from time to time.

"Bill of Sale" means a Bill of Sale executed by Sellers, dated as of the Closing Date, substantially in the form of Exhibit B hereto.

"Bonds" means (i) the \$100,000,000 ASARCO Incorporated 7.875% Debentures due 2013; (ii) the \$150,000,000 ASARCO Incorporated 8.50% Debentures due 2025; (iii) the \$71,900,000 Industrial Development Authority of the County of Gila, Arizona Debentures due 2027; (iv) the \$33,160,000 Lewis and Clark County, Montana Debentures due 2027; (v) the \$27,740,000 Nueces River Authority Debentures due 2027; (vi) the \$34,800,000 Lewis & Clark County, Montana Debentures due 2033; and (vii) the \$22,200,000 Nueces River Authority Debentures due 2018.

"Bonds and Assurances" shall have the meaning set forth in Section 8.9.

"Books and Records" means all books, records, data and files (in any form or medium, including computerized or electronic) of the Business relating to the Purchased Assets including (i) all books and records of account and other financial records (including Tax records or copies thereof); (ii) all catalogues, brochures, advertising materials, forms of purchase orders, sales orders and invoices and similar sales or marketing materials; (iii) all price lists, customer lists, supplier lists, mailing lists and credit records; (iv) all manuals pertaining to software, products, operations, research, development or maintenance; (v) all records or lists pertaining to supply, production or distribution; (vi) all engineering reports and studies, environmental reports and studies, surveys, engineering design plans, blueprints, or mine plans relating to Purchased Real Property; (vii) operating records and operating, safety and maintenance manuals; and (viii) all personnel records (including, personnel files, time and medical records) of all Transferred Employees, personnel policies and procedures, labor relations records (including, all records pertaining to collective bargaining, grievance files and settlements, arbitration decisions and awards), and records relating to affirmative action plans, in each case, to the extent relating specifically to the Purchased Assets, but excluding (A) any such items to the extent relating to any Excluded Assets or Retained Liabilities, (B) any such items to the extent related or pertaining to asbestos or asbestos-containing materials or products or to asbestos personal injury claims or demands against Sellers, including claims which have been litigated, settled or otherwise dealt with by 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 PSA, this Agreement or any of the Ancillary Agreements or otherwise and information and analyses relating to such communications (such items described in (A) through (C), the **"Retained Books and Records"**).

"Business" means the business of mining, smelting and refining of copper and other metals as conducted by Sellers on the date of this Agreement.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by Law to close. Any event the scheduled occurrence of which would fall on a day that is not a Business Day shall be deferred until the next succeeding Business Day.

"Cash" shall have the meaning set forth in Section 3.2(a).

"Casualty" shall have the meaning set forth in Section 8.11.

"CBRP" shall have the meaning set forth in the preamble hereto.

"CFIUS" shall have the meaning set forth in Section 8.3(d).

"CFIUS Notice" shall have the meaning set forth in Section 8.3(d).

"Closing" shall have the meaning set forth in Section 5.1.

"Closing Accounts Amount" shall have the meaning set forth in Exhibit E hereto.

"Closing Accounts Statement" shall have the meaning set forth in Section 4.3(a).

"Closing Date" means the date on which the Closing occurs.

"Closing Payment" shall have the meaning set forth in Section 4.1.

"Coal Act" means the Coal Industry Retiree Health Benefit Act of 1992, as amended.

"COBRA" shall have the meaning set forth in Section 9.6(b).

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" means all collective bargaining agreements between ASARCO and its Subsidiaries and any labor union or other representative of current ASARCO employees (including material local agreements, amendments, supplements, letters and memoranda of understanding of any kind) in effect on the Closing Date.

"Committee" shall mean the official committee of unsecured creditors of ASARCO appointed in connection with the Bankruptcy Cases.

"Confidentiality Agreement" shall have the meaning set forth in Section 8.5.

"Confirmation Deadline" shall have the meaning set forth in Section 13.1(b).

"Contract" means any written contract, indenture, note, bond, loan, instrument, lease, commitment or other agreement.

"Creditor Constituents" means the Committee, the Asbestos Committee, the Asbestos FCR, the United States Department of Justice, the United Steel Workers Union, and the States of Washington, Montana, Missouri, Arizona and Texas.

"Cure Claims" means all defaults as of the Closing Date, as determined by the Bankruptcy Court, and all actual or pecuniary losses that have resulted therefrom and are necessary to cure such defaults under any Assumption-Pending Pre-Petition Contract.

"Deeds" shall have the meaning set forth in Section 5.2(c).

"Deemed Value" means, in respect of the Purchase Price or a Superior Proposal, the aggregate dollar value to Sellers of all cash and non-cash (as applicable) consideration comprising the Purchase Price or Superior Proposal, as applicable, as determined by the Board of Directors of ASARCO after consultation with its financial and legal advisors, the Creditor Constituents and such other advisors as the Board of Directors of ASARCO chooses, in its sole discretion, to consult.

"Definitive Agreement" means a binding definitive written agreement, enforceable against the parties thereto, that effects the consummation of a Superior Proposal. A Definitive Agreement does not include an executed letter of intent or any other preliminary written agreement, nor does it include any oral or written agreement in principle or acceptance of an offer or bid by any Person.

"Deposit" shall have the meaning set forth in Section 4.2.

"Disclosure Statement" means the disclosure statement relating to the Plan to be filed after the date hereof by ASARCO with the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code (including all schedules and exhibits thereto), as such disclosure statement may be amended or modified from time to time, that, to the extent it describes this Agreement, Purchaser (and Guarantor) and the transactions contemplated hereby, is in form and substance reasonably satisfactory to Purchaser.

"Disclosure Statement Approval Date" means the date on which the Disclosure Statement shall have been approved by the Bankruptcy Court.

"Effective Date" shall have the meaning set forth in the preamble hereto.

"Effective Order" means a Plan Confirmation Order entered by the Bankruptcy Court or the United States District Court that has jurisdiction over the Bankruptcy Cases: (a) which the time to appeal or seek certiorari, review, reargument, stay or rehearing has expired or has been waived; or (b) as to which an appeal, petition for certiorari, review, reargument, stay or rehearing has been filed, but no stay of the Plan Confirmation Order has been granted or is in effect (and no request for such stay is pending); provided, that no order or judgment shall fail to be an "Effective Order" solely because of the possibility that a motion pursuant to section 502(j) or 1144 of the Bankruptcy Code, Rule 59 or 60 of the Federal Rules of Civil Procedure or Rule 9024 of the Federal Rules of Bankruptcy Procedure may be filed with respect to such order or judgment.

"Employees" shall have the meaning set forth in Section 9.1(a).

"Enforceability Exceptions" means, with reference to the enforcement of the terms and provisions of this Agreement or any other Contract, that the enforcement thereof is or may be subject to the effect of (i) applicable bankruptcy, receivership, insolvency, reorganization, moratorium, fraudulent conveyance, fraudulent transfer and other similar laws relating to or affecting the enforcement of the rights and remedies of creditors or parties to

executory contracts generally; (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity) and the exercise of equitable powers by a court of competent jurisdiction; and (iii) Applicable Law or public policy limiting the enforcement of provisions providing for the indemnification of any Person.

“Environmental Claims” means any and all actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, notices of liability or potential liability, investigations, proceedings, consent orders or consent agreements relating in any way to any Environmental Law, any Environmental Permit or any Hazardous Materials.

“Environmental Law” 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, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601, *et. seq.*); the Resource, Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, *et. seq.*); 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.

“Environmental Permit” means any Permit required under any applicable Environmental Law.

“Equity Securities” means (i) with respect to any corporation, all shares, interests, participations or other equivalents of capital stock of such corporation (however designated), and any warrants, options or other rights to purchase or acquire any such capital stock and any securities convertible into or exchangeable or exercisable for any such capital stock, (ii) with respect to any partnership, all partnership interests, participations or other equivalents of partnership interests of such partnership (however designated), and any warrants, options or other rights to purchase or acquire any such partnership interests and any securities convertible into or exchangeable or exercisable for any such partnership interests and (iii) with respect to any limited liability company, all membership interests, participations or other equivalents of membership interests of such limited liability company (however designated), and any warrants, options or other rights to purchase or acquire any such membership interests and any securities convertible into or exchangeable or exercisable for any such membership interests.

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

“Exchange Arrangements” shall have the meaning set forth in Exhibit E.

"Excluded Assets" shall have the meaning set forth in Section 3.2.

"Excluded Payables" means all accounts payable (trade and other) of any Seller on the Closing Date arising out of the Retained Liabilities or owing to any Affiliate of any Seller (other than trade payables owing to Silver Bell).

"Excluded Receivables" shall have the meaning set forth in Section 3.2(l).

"Exon-Florio Provision" shall have the meaning set forth in Section 8.3(d).

"Final Arbiter" shall have the meaning set forth in Section 4.4(d).

"Financial Statements" shall have the meaning set forth in Section 6.4.

"First L/C" shall have the meaning set forth in Section 4.2(a).

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States.

"Governmental Authority" 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.

"Grupo" means Grupo Mexico S.A.B. de C.V. and its subsidiaries or Affiliates other than ASARCO and any subsidiary or affiliate owned or controlled by ASARCO.

"Guarantor" shall have the meaning set forth in the preamble hereto.

"Guarantor Opinion" means the opinion of counsel to Guarantor attached as Exhibit C-2 hereto, delivered to Sellers in connection with the execution and delivery of this Agreement.

"Hayden Settlement Agreement" 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 U.S. Environmental Protection Agency, the Arizona Department of Environmental Quality and ASARCO.

"Hazardous Materials" 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.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

"Included Payables" shall have the meaning set forth in Exhibit E hereto.

"Included Receivables" shall have the meaning set forth in Exhibit E hereto.

"Inventory" 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.

"Inventory Amount" shall have the meaning set forth in Exhibit E hereto.

"Judgment Currency" shall have the meaning set forth in Section 14.1(g).

"Law" 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.

"Leasehold Deeds" shall have the meaning set forth in Section 5.2(d).

"Leasehold Property" shall have the meaning set forth in Section 3.1(e)(i).

"Legal Proceeding" 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.

"Letters of Credit" shall have the meaning set forth in Section 4.2(c).

"Liabilities" means any and all debts, losses, liabilities, claims (including claims as defined in the Bankruptcy Code), damages, demands under Section 524(g) of the Bankruptcy Code, 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 hereunder).

"Lien" means any lien, pledge, mortgage, deed of trust, security interest, attachment, levy or other encumbrance affecting title.

"Manipulative Breach" means an intentional and willful material breach by ASARCO of its obligations under Sections 8.2(d) (but only as it relates to Purchased Assets other than Inventory or Included Receivables), 8.7(a), (b) and (d) or 8.10(b) and (d) that gives rise to a termination right pursuant to Section 13.1(j) and such act or omission giving rise to such

breach was performed with the intent to materially breach this Agreement and to prevent the Closing hereunder, as determined by the Bankruptcy Court, after notice and opportunity to be heard, which may be on an expedited basis.

"Matching/Topping Right" shall have the meaning set forth in Section 8.10(e).

"Material Contracts" shall have the meaning set forth in Section 6.8(a).

"Mission Mine Settlement Agreement" means that certain Settlement Agreement between the United States of America, ASARCO, the Tohono O'odham Nation, the San Xavier Allottee's Association, and the San Xavier District.

"Mortgages" shall have the meaning set forth in Section 5.3(k).

"Negotiation Period" shall have the meaning set forth in Section 4.4(b).

"Non-Debtor Contracts" shall have the meaning set forth in Section 3.1(e).

"Non-Debtor Sellers" shall have the meaning set forth in the preamble hereto.

"Non-Target Properties" means all real property that is not (i) a Real Property or (ii) a Silver Bell Property.

"Non-Union Employees" shall have the meaning set forth in Section 9.1(a).

"Non-US Taxing Jurisdiction" shall have the meaning set forth in Section 14.1(h).

"Objection Date" shall have the meaning set forth in Section 4.4(a).

"Objection Notice" shall have the meaning set forth in Section 4.4(a).

"Obligations" shall have the meaning set forth in Section 14.1(a).

"Obligations Currency" shall have the meaning set forth in Section 14.1(g).

"Order" 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.

"Ordinary Course of Business" means the ordinary conduct of business of Sellers, taken as a whole, relating to the Business, either (i) consistent with past practice during the pendency of and, as applicable, taking into account the Bankruptcy Cases, or (ii) consistent with reasonably prudent management of the Business (as determined by the Board in its business judgment) in response to economic and industry conditions.

“Organizational Documents” means (i) in the case of any Person organized as a corporation, the certificate or articles of incorporation of such corporation (or, if applicable, the memorandum and articles of association of such corporation) and the bylaws of such corporation, (ii) in the case of any Person organized as a limited liability company, the certificate of formation or organization and the limited liability company agreement, operating agreement or regulations of such limited liability company, (iii) in the case of any Person organized as a limited partnership, the certificate of limited partnership and partnership agreement of such limited partnership and (iv) in the case of any other Person, all constitutive or organizational documents of such Person which address all matters relating to the business and affairs of such Person similar to the matters addressed by the documents referred to in clauses (i) through (iii) above in the case of Persons organized as corporations, limited liability companies or limited partnerships.

“Original PSA” shall have the meaning set forth in the recitals hereto.

“OSHA” means the Occupational Safety and Health Act of 1970, as amended.

“Patent Assignment” shall have the meaning set forth in Section 5.2(j).

“Patents” means issued United States and foreign patents and pending patent applications.

“Pension Plan” shall have the meaning set forth in Section 6.10(b).

“Periodic Taxes” shall have the meaning set forth in Section 10.2.

“Permits” means any approvals, authorizations, consents, licenses, permits or certificates.

“Permitted Liens” means (i) all Liens set forth in Section 1.1A of the Seller Disclosure Schedule, (ii) 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 therefor or such amount has been deposited with the appropriate Governmental Authority or other adjudicating Person, (iii) 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, (iv) purchase money security interests arising in the Ordinary Course of Business, (v) any Lien arising out of a Tolling Arrangement or Exchange Arrangement, to the extent not arising out of a breach of such Tolling Arrangement or Exchange Arrangement, (vi) rights of landlords in respect of any Leasehold Property where the applicable lease is not in default, (vii) any Lien that, pursuant to Section 363(f) of the Bankruptcy Code, will be released upon entry of the Plan Confirmation Order; and (viii) such other Liens as would not reasonably be expected to have, individually or in the aggregate, a Seller Material Adverse Effect.

“Person” means any natural person, corporation, limited partnership, limited liability company, general partnership, joint stock company, joint venture, association, company,

trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, and any Governmental Authority.

"Plan" means the plan of reorganization prepared by ASARCO and filed after the date hereof with the Bankruptcy Court as (or intended to be) confirmed by the Plan Confirmation Order that contains terms and conditions, that to the extent they relate to this Agreement, Purchaser, Guarantor and the transactions contemplated hereunder, are reasonably satisfactory to Purchaser.

"Plan Confirmation Order" means an order of the Bankruptcy Court or the United States District Court that has jurisdiction over the Bankruptcy Cases, that, to the extent the order relates to this Agreement, Purchaser (and Guarantor) or the transactions contemplated hereunder is reasonably satisfactory to Purchaser, and in a form acceptable to Sellers in all respects, approving this Agreement and all of the terms and conditions hereof, and approving and authorizing Sellers to consummate the transactions contemplated hereby, including the transfer of the Purchased Assets to Purchaser. The Plan Confirmation Order shall find and provide, among other things, that (i) the transfer of the Purchased Assets by Sellers to Purchaser pursuant to this Agreement (A) will be legal, valid and effective transfers of the Purchased Assets; (B) will vest Purchaser with all right, title and interest of Sellers in and to the Purchased Assets, 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 any right of setoff, recoupment, netting or deduction); (C) constitute transfers for reasonably equivalent value and fair consideration under the Bankruptcy Code and under Applicable Law; and (D) qualifies for exemption under section 1146(c) of the Bankruptcy Code such that Transaction Taxes will be exempted pursuant to, and to the fullest extent allowed by, Section 1146(c) of the Bankruptcy Code; (ii) the transactions contemplated by this Agreement are undertaken by Purchaser and ASARCO at arm's length, without collusion and in good faith within the meaning of Section 363(m) of the Bankruptcy Code; (iii) ASARCO has complied with the notice requirements of Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure and any applicable rules of the Bankruptcy Court with respect to the transactions contemplated by this Agreement, the Ancillary Agreements and by all other agreements, documents and instruments contemplated in connection with this Agreement; (iv) ASARCO has satisfied all of the requirements of, and are authorized pursuant to, Section 363(b) and (f) of the Bankruptcy Code to enter into this Agreement and to consummate the transactions contemplated hereby; and (v) present and future asbestos claims and demands are enjoined from being asserted against ASARCO; ASARCO's officers, directors and Subsidiaries; Purchaser, Guarantor and the Purchased Assets (and against any officer, director, Affiliate or assets of Purchaser or Guarantor) pursuant to a channeling injunction issued in compliance with Section 524(g) of the Bankruptcy Code.

"Pre-Petition Contracts" shall have the meaning set forth in Section 3.1(e).

"Post-Petition Contracts" shall have the meaning set forth in Section 3.1(e).

"Proprietary Software" shall have the meaning set forth in Section 3.1(i).

"Proration Periods" shall have the meaning set forth in Section 10.2.

"Purchase Price" shall have the meaning set forth in Section 4.1.

"Purchased Assets" shall have the meaning set forth in Section 3.1.

"Purchased Real Property" shall have the meaning set forth in Section 3.1(c).

"Purchaser" shall have the meaning set forth in the preamble hereto.

"Purchaser Bad Faith Event" shall have the meaning set forth in Section 13.2(c).

"Purchaser Breach" shall have the meaning set forth in Section 4.2(e).

"Purchaser Claims" shall have the meaning set forth in Section 2.1(b).

"Purchaser Opinion" means an opinion of counsel to Purchaser delivered to Sellers in connection with the execution and delivery of this Agreement attached as Exhibit C-1 hereto.

"Purchaser Promissory Note" means a promissory note in the principal amount of \$600,000,000.00 (as adjusted pursuant to Section 4.3(c) herein and Section 2.7 therein) issued at Closing by Purchaser to ASARCO Administration Company LLC (or such other Person as ASARCO may designate in accordance with the Plan) in the form of Exhibit D hereto.

"Purchaser Released Parties" shall have the meaning set forth in Section 2.1(a).

"Purchaser Releasing Party" shall have the meaning set forth in Section 2.1(b).

"Qualified Bank" means ABN AMRO 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 Sellers.

"Real Property" shall have the meaning set forth in Section 3.1(c)(i).

"Release" 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.

"Release Conditions" shall have the meaning set forth in Section 2.1(c).

"Remedial Action" 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.

"Representatives" shall have the meaning set forth in Section 8.10(a)(ii).

"Retained Books and Records" shall have the meaning set forth in the definition of Books and Records.

"Retained Liabilities" shall have the meaning set forth in Section 3.4.

"Santa Cruz" shall have the meaning set forth in the preamble hereto.

"Santa Cruz JV Agreement" means the Santa Cruz Joint Venture Agreement, dated as of July 1, 1977, between Freeport Copper Company and Santa Cruz, as amended, and as modified by that certain Modification Agreement, dated as of April 11, 1990, among FCC, Freeport-McMoRan Inc., ASARCO Santa Cruz and ASARCO Incorporated, as further modified and amended.

"Second L/C" shall have the meaning set forth in Section 4.2(b).

"Securities Act" shall have the meaning set forth in Section 7.5.

"Security Agreement" means the Security Agreement, dated as of the Closing Date, between Purchaser and ASARCO substantially in the form of Exhibit L hereto.

"Seller Claims" shall have the meaning set forth in Section 2.1(a).

"Seller Data Room" means the online IntraLinks data room set up by Sellers.

"Seller Disclosure Schedule" means the Disclosure Schedule delivered to Purchaser pursuant to this Agreement.

"Seller Employee Benefit Plan" 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 Sellers or with respect to which any of Sellers or their Affiliates have any obligation or liability.

"Seller Material Adverse Effect" means (a) a material adverse effect on the financial condition of the Business (to the extent related to the Purchased Assets and Assumed Liabilities) or the condition of the Purchased 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 Sellers' ability to consummate the transactions contemplated by this Agreement, excluding, in each case, any such effect, change, circumstance or event attributable to or resulting from (i) the announcement, pendency or consummation of this Agreement, the sale of the Purchased Assets or any other action by Sellers or its Affiliates required or expressly contemplated by this Agreement, (ii) the conversion or dismissal of any Bankruptcy Case or the filing of additional petitions under Chapter 11 of the Bankruptcy Code by or involving any of 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 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 this Agreement or with the prior written consent of Purchaser, (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 this Agreement, the Ancillary Agreements or the transactions contemplated hereby or thereby; *provided, however*, that in the case of clauses (iv), (v) and (vi), such changes do not affect Sellers in a materially disproportionate manner compared to other businesses conducting a business substantially similar to the Business of 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 Purchaser with respect to such condition or matter from insurance policies.

"Seller Released Parties" shall have the meaning set forth in Section 2.1(b).

"Seller Releasing Party" shall have the meaning set forth in Section 2.1(a).

"Sellers" shall have the meaning set forth in the preamble hereto.

"Sellers' Accountants" means Keegan, Linscott & Kenon, P.C., Grant Thornton LLP, or such other firm of independent accountants that ASARCO's Board of Directors may approve and appoint to audit Sellers' financial statements.

"Sellers' Knowledge" means the actual knowledge, without any requirement of inquiry or investigation, of any of the individuals listed in Section 1.1B of the Seller Disclosure Schedule.

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

"Silver Bell Interests" shall have the meaning set forth in Section 3.1(h).

"Silver Bell LLC Agreement" means that certain Membership Interest Agreement, dated February 5, 1996, among Ginrei, Inc., MSB Copper Corp. and ARSB, as amended, as located in section 2.05.04 of the Seller Data Room.

"Silver Bell Property" means all real property owned or leased by Silver Bell.

"Stand-Alone Plan" means a plan of reorganization sponsored by a Person other than Purchaser or Guarantor which the Board of Directors of ASARCO determines (after consultation with its legal and financial advisors and the Creditor Constituents) in good faith would, if consummated and taking into account all factors deemed relevant by the Board of Directors of ASARCO, be more favorable to ASARCO and its stakeholders than the transactions

contemplated by this Agreement; *provided, however*, that, for purposes of the stand-alone plan proposal only, any costs or benefits of any claims which may be made against Purchaser or Guarantor under the Original PSA shall be excluded from the analysis of such stand-alone plan.

"Sterlite Agreed Order" shall have the meaning set forth in Section 2.2.

"Sterlite Settlement Motion" shall have the meaning set forth in Section 2.2.

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, joint venture or partnership of which such Person (a) beneficially owns, either directly or indirectly, more than 50% 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.

"Superior Proposal" means a bona fide written Acquisition Proposal that the Board of Directors of ASARCO determines (after consultation with its legal and financial advisors) in good faith (i) is reasonably likely to be consummated in a timely manner, taking into account all factors deemed relevant by the Board of Directors of ASARCO (including all legal, financial and regulatory aspects of the proposal and the Person making the proposal), (ii) if consummated would, taking into account all factors deemed relevant by the Board of Directors of ASARCO (including the amounts that would be owed to Purchaser under Section 13.2(b)(v) (if any) and if, and only to the extent, this Agreement has not been terminated prior to the execution of a Definitive Agreement in respect of such Acquisition Proposal, the costs reasonably likely to be incurred in connection with the negotiation of an Acquisition Proposal, result in a transaction more favorable to ASARCO and its stakeholders than the transactions contemplated by this Agreement and (iii) provides a Deemed Value to ASARCO and its bankruptcy estate that exceeds, by the Superior Proposal Threshold, the Deemed Value of this Agreement and the transactions contemplated hereby; *provided, however*, that, in the case of each of the foregoing clauses, for purposes of the Acquisition Proposal only, any costs or benefits of any claims which may be made against Purchaser or Guarantor under the Original PSA shall be excluded from the analysis of such Acquisition Proposal.

"Superior Proposal Threshold" means \$25,000,000 plus the amount that would be owed to Purchaser under Section 13.2(b)(v) (if anything) following termination of this Agreement.

"Suppliers" shall have the meaning set forth in Section 6.9.

"Survey" shall have the meaning set forth in Section 8.8.

"Tax" means any (a) federal, state, provincial, territorial, municipal, local or foreign income, profits, franchise, gross receipts, customs, duties, net worth, sales, use, goods and services, gross receipts, withholding, value added, ad valorem, employment, social security, disability, occupation, pension, real property, personal property (tangible and intangible), stamp, duty, stamp duty, transfer, conveyance, severance, production, excise and other taxes,

withholdings, duties, levies, imposts and other similar charges and assessments (including any and all fines, penalties and additions attributable to or otherwise imposed on or with respect to any such taxes, charges, fees, levies or other assessments, and interest thereon) imposed by or on behalf of any Taxing Authority, and (b) liability for the payment of any Tax (i) as a result of being a member of a consolidated, combined, unitary or affiliated group that includes any other Person, (ii) by reason of any obligation to indemnify or otherwise assume or succeed to the liability of any other Person for Taxes, including, a Tax sharing, Tax indemnity or similar agreement, or (iii) by reason of transferee or successor liability.

"Tax Return" means any return, report, declaration, election, statement, information return or other document required to be filed with any Taxing Authority with respect to Taxes, including any amendments thereof.

"Taxing Authority" means any Governmental Authority exercising any authority to impose, regulate, levy, assess or administer the imposition of any Tax.

"Termination Date" shall have the meaning set forth in Section 13.1(c).

"Third L/C" shall have the meaning set forth in Section 4.2(c).

"Title Company" shall have the meaning set forth in Section 8.8.

"Title Policy" shall have the meaning set forth in Section 8.8.

"Title Report" shall have the meaning set forth in Section 8.8.

"Tolling Arrangements" 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.

"Trademark Assignment" shall have the meaning set forth in Section 5.2(k).

"Trademarks" means United States, state and foreign trademarks, service marks, trade names and logos and all applications to register the foregoing.

"Transaction Taxes" shall have the meaning set forth in Section 10.1.

"Transferred Employees" shall have the meaning set forth in Section 9.1(a).

"Transition Services Agreement" means the Transition Services Agreement, dated as of the Closing Date, between Purchaser and ASARCO, to be negotiated in accordance with Section 8.14, which will include, among other things, the services and terms described in Exhibit K hereto.

"Union Employees" shall have the meaning set forth in Section 9.1(a).

"Unions" means those unions listed in Section 11.3 of the Seller Disclosure Schedule.

"Unpaid Cure Claims Amount" means, with respect to any Assumption-Pending Pre-Petition Contract, the aggregate amount of any Cure Claims 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.

"WARN Act" shall have the meaning set forth in Section 9.9.

1.2 *Other Terms.* Other terms may be defined elsewhere in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement.

1.3 *Certain Rules of Construction.* Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. In addition, as used in this Agreement, unless otherwise provided to the contrary, (a) all references to days, months or years shall be deemed references to calendar days, months or years or (b) any reference to a "Section," "Article" or "Exhibit" shall be deemed to refer to a section or article of this Agreement, a Disclosure Schedule or an exhibit attached to this Agreement. Unless the context otherwise requires, the words "hereof," "herein," and "hereunder" and words of similar import referring to this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The words "include," "includes," or "including" shall be deemed to be followed by the words "without limitation." Unless otherwise specifically provided for herein, the term "or" shall not be deemed to be exclusive. All references to dollar amounts are to the lawful currency of the United States of America. A reference to any Law shall include all modifications, amendments and re-enactments thereof.

ARTICLE II SETTLEMENT AND RELEASE

2.1 *Settlement and Release.*

(a) Effective only if and when a Release Condition occurs, each Seller, on behalf of itself and its successors, assigns, Representatives and Subsidiaries (each, a **"Seller Releasing Party"**), will fully and forever irrevocably and unconditionally release and discharge each of Purchaser and Guarantor and its successors, permitted assigns, Representatives and Affiliates (each a **"Purchaser Released Party"** and collectively, **"Purchaser Released Parties"**) from any and all Liabilities both at law and in equity which a Seller Releasing Party has, has ever had, or may hereafter have against any Purchaser Released Party arising out of the Original PSA (collectively, the **"Seller Claims"**). No release is made by any Seller Releasing Party unless and until a Release Condition occurs and unless and until a Release Condition occurs all of the Seller Claims against each of Purchaser and Guarantor shall remain fully enforceable. If no Release Condition occurs, the release contained in this Section 2.1(a) shall not become operational or effective.

(b) Effective only if and when a Release Condition occurs, each of Purchaser and Guarantor, on behalf of itself and its successors, assigns, Representatives and Subsidiaries (each, a "**Purchaser Releasing Party**"), will fully and forever irrevocably and unconditionally release and discharge each Seller and its successors, assigns, Representatives and Affiliates (each a "**Seller Released Party**" and collectively, "**Seller Released Parties**") from any and all Liabilities both at law and in equity which a Purchaser Releasing Party has, has ever had, or may hereafter have against any Seller Released Party arising out of the Original PSA (collectively, "**Purchaser Claims**"). No release is made by any Purchaser Releasing Party unless and until a Release Condition occurs and unless and until a Release Condition occurs all of the Purchaser Claims against Sellers shall remain fully enforceable. If no Release Condition occurs, the release contained in this Section 2.1(b) shall not become operational or effective.

(c) For purposes of this Agreement, a "**Release Condition**" means the occurrence after the entry of the Sterlite Agreed Order by the Bankruptcy Court of any of the following: (i) the Closing hereunder prior to or on the Termination Date; (ii) both (A) the termination of this Agreement pursuant to Section 13.1(d) due to the Bankruptcy Court's approval of a Superior Proposal that is evidenced by a Definitive Agreement duly executed by all parties thereto and (B) subsequent to such termination, the consummation by ASARCO and a Person other than Purchaser or Guarantor (or any of their respective Affiliates) of such Superior Proposal; (iii) both (A) the termination of this Agreement pursuant to Section 13.1(e) due to the Bankruptcy Court's approval of a Stand-Alone Plan approved and supported by the Board of Directors of ASARCO and (B) subsequent to such termination, the consummation of such Stand-Alone Plan; (iv) both (A) the termination of this Agreement pursuant to Section 13.1(b), (c), (f), (g), (h)(ii), (i) or (m), and (B) subsequent to such termination, the consummation by ASARCO and a Person other than Purchaser or Guarantor (or any of their respective Affiliates) of a Superior Proposal; *provided*, that a Definitive Agreement for such Superior Proposal is duly executed by all parties thereto no later than the 180th day following such termination; or (v) the termination of this Agreement by Purchaser pursuant to Section 13.1(i) upon the occurrence of a Manipulative Breach; *provided*, however, that, with respect to the foregoing clauses (ii), (iii), (iv) and (v), in no event shall a Release Condition be deemed to have occurred if any Purchaser Bad Faith Event has occurred. For purposes of this Article II and Section 13.2(b)(v), the Board of Directors of ASARCO shall make its determination of whether or not an Acquisition Proposal is a Superior Proposal at the time the Definitive Agreement for such Acquisition Proposal is executed by all parties thereto. For avoidance of doubt, no Release Condition will occur if the Sterlite Agreed Order is not entered by the Bankruptcy Court.

(d) Notwithstanding anything to the contrary contained herein, (i) Sellers agree that if this Agreement has not been terminated, they shall not, and they shall cause the other Seller Releasing Parties not to, commence any Legal Proceeding based on any Seller Claims and (ii) Purchaser and Guarantor each agree that if this Agreement has not been terminated, neither shall, and each shall cause the other Purchaser Releasing Parties not to, commence any Legal Proceeding based on any Purchaser Claims.

2.2 **Bankruptcy Court Approval of Settlement and Release.** ASARCO shall file with the Bankruptcy Court, as soon as practicable following the execution of this Agreement but in no event later than five Business Days following the Effective Date, a motion pursuant to Rule 9019

of the Federal Rules of Bankruptcy Procedure in substantially the form of Exhibit M-1 hereto (the "***Sterlite Settlement Motion***"), and supporting papers seeking the entry of an agreed order of the Bankruptcy Court in substantially the form of Exhibit M-2 hereto (the "***Sterlite Agreed Order***") approving the terms of this Article II, the Superior Proposal Threshold, Sections 8.10(b), (c), (e) and (f), and Section 13.2(b)(v). Sellers shall use their commercially reasonable efforts to have the Sterlite Agreed Order entered as soon as practicable following the filing of the Sterlite Settlement Motion.

2.3 *Reservation of Rights.* Except as set forth in this Article II, Purchaser, Guarantor and Sellers reserve any and all rights and remedies existing at law or in equity or arising out of or relating to the Original PSA, including those contained in Section 12.2 thereof, or otherwise, and except as set forth in this Article II nothing herein shall be construed as or constitute a waiver or release of any such rights or remedies.

ARTICLE III SALE AND PURCHASE OF THE PURCHASED ASSETS

3.1 *Purchased Assets.* Upon the terms and subject to the conditions contained herein, at the Closing, Sellers shall sell, convey, transfer, assign and deliver to Purchaser, and Purchaser shall purchase and acquire from Sellers, free and clear of all Liens (other than Permitted Liens), all of Sellers' right, title and interest in and to all properties and assets, whether tangible or intangible, used or held for use by Sellers in the conduct of the Business (other than the Excluded Assets) (the "***Purchased Assets***"). Without limiting the generality of the foregoing, the Purchased Assets shall include all of Sellers' right, title and interest in and to the following to the extent used or held for use in the conduct of the Business:

- (a) all Inventory;
- (b) all machinery, equipment, fixtures, furniture, computers, tools, parts, supplies and other tangible personal property used, or held for use, in connection with the operation of the Business, including the equipment and machinery listed in Section 3.1(b) of the Seller Disclosure Schedule;
- (c) the real property identified in Section 3.1(c) of the Seller Disclosure Schedule ("***Purchased Real Property***"), 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;
- (d) all accounts receivable of Sellers identified on the Books and Records as of the close of business on the Closing Date other than any Excluded Receivables;
- (e) subject to Section 3.2(i), all Contracts (A) that were entered into prior to the filing of the Bankruptcy Cases to which ASARCO is a party that (i) have been assumed by ASARCO prior to the date hereof (the "***Assumed Pre-Petition Contracts***") or (ii) are assumed by ASARCO in accordance with Section 3.5 (Contracts referred to in (i) and (ii) collectively

referred to herein as, the "***Pre-Petition Contracts***"), (B) that have been entered into by ASARCO subsequent to the filing by ASARCO of its voluntary petition for relief under Chapter 11 of the Bankruptcy Code, but if entered into after the date hereof, solely to the extent entered into in the Ordinary Course of Business (the "***Post-Petition Contracts***"), and (C) to which any Non-Debtor Seller is a party on the date hereof or entered into after the date hereof in the Ordinary Course of Business (the "***Non-Debtor Contracts***"), together with the Pre-Petition Contracts and the Post-Petition Contracts, the "***Assumed Contracts***"), which may include (to the extent assignable):

(i) all leases, subleases, licenses or other agreements relating to the occupancy of real property identified in Section 3.1(e)(i) of the Seller Disclosure Schedule, together with all of 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 Sellers and used or held for use in the Business (the "***Leasehold Property***," the Leasehold Property and the Purchased Real Property collectively the "***Real Property***");

(ii) all leases of equipment, fixtures, furniture, computers, tools, parts, supplies and other tangible personal property leased by Sellers and used or held for use in the Business and identified in Section 3.1(e)(ii) of the Seller Disclosure Schedule;

(iii) all Contracts with any Transferred Employees, which for clarification shall not include the Collective Bargaining Agreements which are expressly excluded from Assumed Contracts;

(iv) all Contracts through which any computer software system or program is licensed to any Seller;

(v) all Contracts governing Tolling Arrangements with other Persons;

(vi) all Contracts with any customer of any Seller;

(vii) all Contracts with any supplier of any Seller;

(viii) the insurance policies identified in Section 3.1(e)(viii) of the Seller Disclosure Schedule;

(ix) certain Seller Employee Benefit Plans as and to the extent provided in Article IX, and the assets related thereto;

(x) all confidentiality agreements entered into between ASARCO and any prospective bidder in connection with the transactions contemplated hereunder;

(xi) the leases and other assets assumed pursuant to the Mission Mine Settlement Agreement and the Order of the Bankruptcy Court entered on April 9, 2008 approving the Mission Mine Settlement Agreement, including the Access

Agreement executed by certain of the parties to the Mission Mine Settlement Agreement on April 13, 2007 and corresponding Tribal Council Resolution numbers 07-192 and 07-562, and two settlement agreements related to water rights issues in Arizona and the Southern Arizona Water Rights Settlement Agreement that were approved by the Bankruptcy Court in the Order entered under Docket No. 2320;

(xii) all rights of ASARCO under the Hayden Settlement Agreement and the Mission Mine Settlement Agreement, including in respect of those certain trusts created pursuant thereto;

(xiii) all leases of real property identified in Section 3.1(e)(xiii) of the Seller Disclosure Schedule pursuant to which any Seller is a lessor of any Purchased Real Property;

(xiv) the royalty agreements identified in Section 3.1(e)(xiv) of the Seller Disclosure Schedule;

(xv) the other Contracts identified in Section 3.1(e)(xv) of the Seller Disclosure Schedule;

(xvi) Santa Cruz JV Agreement and, subject to Section 3.6, Silver Bell LLC Agreement; and

(xvii) ASARCO's right, title and interest in and to the Agreement among Noranda Exploration, Inc., Four Metals Mining Company and ASARCO, dated July 6, 1978, entered into in connection with the exploration venture referred to as "Ventura."

(f) all prepaid rentals, deposits, security deposits, advances and other prepaid expenses of any Seller other than those paid in connection with or relating to any Excluded Asset;

(g) all motor vehicles identified in Section 3.1(g) of the Seller Disclosure Schedule;

(h) subject to Section 3.6, the limited liability company interests of Silver Bell owned by any Seller ("*Silver Bell Interests*");

(i) all copyrights, including copyrights in software, and all software and associated documentation developed or owned by Sellers for use in the Business (the "*Proprietary Software*"), including all goodwill associated with such Proprietary Software and all rights of Sellers to sue for and receive damages or other relief in respect of any past infringement or other violation of any rights thereto;

(j) all Patents identified in Section 3.1(j) of the Seller Disclosure Schedule, including all goodwill associated with such Patents and all rights of Sellers to sue for and receive

damages or other relief in respect of any past infringement or other violation of any rights thereto;

(k) all Trademarks identified in Section 3.1(k) of the Seller Disclosure Schedule (including the name "ASARCO"), including all goodwill associated with such Trademarks and all rights of Sellers to sue for and receive damages or other relief in respect of any past infringement or other violation of any rights thereto;

(l) all Books and Records;

(m) all Permits used or held for use in the operation of the Business and listed in Section 3.1(m) of the Seller Disclosure Schedule, in each case to the extent the same are assignable;

(n) rights to any Tax refunds or credits for Taxes related to the ownership or operation of the Business or the Purchased Assets and that are attributable to any taxable periods (or portions thereof) beginning after the Closing Date or that relate to the portion of Transaction Taxes paid by Purchaser pursuant to Section 10.1 if (and only if) Sellers have not borne any Transaction Taxes or Sellers have received refunds or credits of all Transaction Taxes borne by them pursuant to Section 10.1;

(o) all patented and unpatented mining claims identified in Section 3.1(o) of the Seller Disclosure Schedule; and

(p) all rights and claims (whether contingent or absolute, matured or unmatured and whether in tort, contract or otherwise) against any Person relating to the adversary proceedings listed in Section 3.1(p) of the Seller Disclosure Schedule.

3.2 *Excluded Assets.* Notwithstanding the provisions of Section 3.1 to the contrary, the properties, assets and rights of any Seller described below are expressly excluded from the transactions contemplated by this Agreement and are not included in the Purchased Assets (the "*Excluded Assets*");

(a) all of Sellers' cash and cash equivalents, on hand or in banks, certificates of deposit, bank or savings and loan accounts and U.S. government securities of any kind or nature on the Closing (collectively, "*Cash*");

(b) rights to any Tax refunds or credits for Taxes (including credits against post-Closing Taxes) related to the ownership or operation of the Business or the Purchased Assets and that are attributable to any taxable periods (or portions thereof) ending on or prior to the Closing Date but excluding any Tax refunds or credits for Taxes relating to the portion of Transaction Taxes paid by Purchaser pursuant to Section 10.1 if (and only if) Sellers have not borne any Transaction Taxes or Sellers have received refunds or credits of all Transaction Taxes borne by them pursuant to Section 10.1;

(c) all Equity Securities (i) representing ownership in Sellers and (ii) listed in Section 3.2(c) of the Seller Disclosure Schedule and, in the case of each of the entities listed in

Section 3.2(c) of the Seller Disclosure Schedule, all right, title and interest of any such entities in their respective assets, claims and causes of action, property or business;

(d) all insurance policies except those set forth in Section 3.1(e)(viii) of the Seller Disclosure Schedule;

(e) all rights, claims, causes of action, rights of recovery and rights of set-off, recoupment or counterclaim of any kind arising under the Bankruptcy Code or applicable bankruptcy law, including but not limited to claims against any Person relating to the adversary proceedings listed in Section 3.2(e) of the Seller Disclosure Schedule;

(f) all rights, claims, causes of action, rights of recovery and rights of set-off of any kind against current or former directors, officers or other employees of, or agents, accountants or other advisors of or to, any Seller or any Affiliate of any Seller;

(g) the real property listed in Section 3.2(g) of the Seller Disclosure Schedule including, all mines, dumps, impoundments, leach pads, tailings, equipment, vehicles, personal property, buildings, plants, warehouses, railroad tracks, rights of way, easements, facilities and other improvements and fixtures thereon and appurtenances thereto, all mining and mineral rights associated therewith (whether pursuant to patented or unpatented mining claims, mineral leases or otherwise), and any leases or subleases thereto or by any Seller and all Permits to the extent relating thereto;

(h) all rights of ASARCO under, including in respect of that certain trust created pursuant to, the Consent Decree entered in *United States v. ASARCO Inc., et al.*, Civil Action No. 02-2079, filed in the United States District Court for the District of Arizona;

(i) all rights of any Seller under this Agreement, the Ancillary Agreements and all other agreements, documents and instruments contemplated in connection with this Agreement;

(j) the following Contracts:

(i) all Contracts related to the Bonds;

(ii) the Collective Bargaining Agreements;

(iii) all Seller Employee Benefit Plans, and the assets related thereto, except as and to the extent provided in Article IX;

(iv) all Contracts between any Seller on the one hand and any Affiliate of any Seller on the other, other than contracts solely between or among Sellers;

(v) the Contracts listed in Section 3.2(i) of the Seller Disclosure Schedule;

(k) the deposits and prepaid expenses related to the Contracts described in Section 3.2(i) or any other asset described in this Section 3.2;

(l) all rights, if any, of ASARCO in and to (i) the two promissory notes from Americas Mining Corporation, due October 31, 2009 and May 31, 2010, respectively, in the aggregate original principal amount of \$223,250,000, (ii) all accounts receivable (trade and other) of any Seller arising out of or in connection with any item described in this Section 3.2 and (iii) all accounts receivable and any other rights to payment owing from any Affiliate of any Seller (other than trade accounts receivable owing from Silver Bell) (collectively, the "***Excluded Receivables***");

(m) all Retained Books and Records; and

(n) except as described in Section 3.1(p), all rights, claims, causes of action, rights of recovery and rights of set-off, recoupment or counterclaim of any kind against any person (whether contingent or absolute, matured or unmatured and whether in tort, contract or otherwise) (i) relating to the assets, properties, business or operations of any Seller arising out of events occurring prior to the Closing Date except to the extent arising out of (A) the operation of the Business in the Ordinary Course of Business and (B) the Purchased Assets or Assumed Liabilities, but not including any such rights described in Section 3.2(e) or clauses (ii) and (iii) of this Section 3.2(n), (ii) which may arise in connection with discharge by Sellers of the Retained Liabilities, including all rights and claims, (iii) relating to the adversary proceedings listed in Section 3.2(n) of the Seller Disclosure Schedule, or (iv) against Grupo.

3.3 *Assumed Liabilities.* From and after the Closing, Purchaser shall assume, pay, perform and discharge when due, and Purchaser acknowledges that it shall have no recourse from Sellers in respect of, and further that Purchaser shall defend, indemnify and hold harmless each Seller, and each Seller's respective officers, directors, employees, agents, representatives and Affiliates, from and against any costs, damages, demands, causes of action, Liabilities, lawsuits, judgments, losses and expenses of any kind associated with, the following Liabilities (the "***Assumed Liabilities***"):

(a) all Liabilities of any and all Sellers under or with respect to the Assumed Contracts (other than Cure Claims);

(b) all amounts due and payable pursuant to all of the accounts payable (trade and other) of Sellers on the Books and Records as of the close of business on the Closing Date (other than the Excluded Payables);

(c) all Liabilities (i) arising on or after the Closing Date with respect to any Transferred Employee or any Seller Employee Benefit Plan (as and to the extent such Seller Employee Benefit Plan is being assumed pursuant to Article IX) or (ii) that are allocated to Purchaser pursuant to Article IX or (iii) that are agreed to between Purchaser and the respective Union;

(d) all Liabilities with respect to Taxes that are assumed by, or allocated to, Purchaser pursuant to Article X, including, without limitation, the portion of Transaction Taxes and Periodic Taxes for which Purchaser is liable under Sections 10.1 and 10.2;

(e) except as provided in Sections 3.4(f), (g) and (h), all Liabilities relating to any Environmental Laws regarding any of the Real Property (including all Liabilities relating to Releases of Hazardous Materials at such properties or that have migrated or in the future migrate off-site from such properties) irrespective of whether such Liabilities relate to actions, omissions or events that occur or exist prior to or after the Closing Date (the "*Assumed Environmental Liabilities*");

(f) all Liabilities of any and all Sellers under or with respect to the Permits (to the extent related to the Purchased Assets); and

(g) except as described in Sections 3.4(a) and (c), all Liabilities arising on or after the Closing Date out of the operation of the Business or the ownership of the Purchased Assets, including Liabilities in respect of Asset Retirement Obligations.

3.4 *Retained Liabilities.* Purchaser shall not assume or be obligated to pay, perform or otherwise discharge any Liabilities of Sellers, other than those that are expressly assumed by Purchaser hereunder as Assumed Liabilities (collectively, the "*Retained Liabilities*"). Without limiting the generality of the foregoing, the Retained Liabilities include the following Liabilities of Sellers:

(a) Liabilities (other than the Assumed Liabilities) incurred in the Ordinary Course of Business existing prior to the filing of the Bankruptcy Cases that are subject to compromise under the Bankruptcy Cases;

(b) all Taxes of Sellers, and all Taxes related to Sellers' ownership or operation of the Purchased Assets or the Business, except (i) those Taxes related to the ownership or operation of the Purchased Assets or the Business which are attributable to taxable periods or portions thereof beginning on or after the Closing and (ii) those Taxes specified in Section 3.3(d);

(c) all Liabilities arising out of (but only to the extent relating to) any of the Excluded Assets;

(d) all Liabilities arising out of the Bonds;

(e) all Liabilities relating to current or former employees of Sellers or any of their current or former Affiliates, other than Transferred Employees, and all Liabilities with respect to Transferred Employees arising prior to the Closing Date, except as may otherwise be provided in Article IX or that are agreed to between Purchaser and the respective Union;

(f) all Liabilities relating to any Environmental Laws regarding any Non-Target Properties (other than Liabilities relating to the off-site migration of Hazardous Materials from a Real Property or Silver Bell Property to a Non-Target Property), irrespective of whether such Liabilities relate to actions, omissions or events that occur or exist prior to or after the Closing Date, including any Liabilities relating to Hazardous Materials that, prior to the Closing Date, were sent from a Real Property (other than by natural migration or to another Real Property or a Silver Bell Property) off-site for treatment, storage or disposal;

(g) all Liabilities relating to any toxic tort claim or other claim by a Person other than a Governmental Authority to the extent it relates to exposure prior to the Closing Date to Hazardous Materials (for the avoidance of doubt, with respect to any such claim that alleges exposure to Hazardous Materials that occurred prior to the Closing Date and continued or continues after the Closing Date, the portion of the Liability attributable to the pre-Closing exposure shall be a Retained Liability and the portion attributable to the continuation of the exposure post-Closing shall be an Assumed Liability); and

(h) all Liabilities for any natural resource damages at any Non-Target Property that result from migrations or Releases of Hazardous Materials from Real Property that occurred prior to the Closing Date and did not continue thereafter.

3.5 *Contract Designation Rights.*

(a) Contracts that were entered into prior to the filing of the Bankruptcy Cases to which ASARCO is a party that, as of the date of this Agreement, have not been assumed by Sellers and are to be assigned to Purchaser (the "*Assumption-Pending Pre-Petition Contracts*") are identified in Section 3.5(a) of the Seller Disclosure Schedule and all such contracts shall be assumed and assigned hereunder. Purchaser shall timely deliver to Sellers such information or documentation relating to "adequate assurance of future performance" as shall be reasonably required in connection with the assumption and assignment of such Contracts pursuant to the Plan.

(b) At or prior to the Closing, to the extent not previously paid, Sellers shall pay any and all Cure Claims with respect to all Assumption-Pending Pre-Petition Contracts; *provided*, that any Unpaid Cure Claims Amounts shall be subject to Section 3.5(d).

(c) Nothing in this Agreement shall be construed as an attempt by any Seller to assign any Contract to the extent that such Contract is not assignable without the necessary notice to or consent of the other party or parties thereto, and such notice to or consent of such other party has not been given or received, as applicable. Purchaser acknowledges that no adjustment to the Purchase Price shall be made for any such Contracts that are not assigned and that Purchaser shall have no claim against Sellers or any other Person in respect of such unassigned Contracts. Notwithstanding the absence at Closing of one or more required consents to the assignment of a Contract that is intended to be an Assumed Contract, following the Closing at such time as consent has been obtained, or any requisite notice has been made or delivered, as applicable, the related Contract shall be assigned to Purchaser automatically without any other conveyance or other action by Purchaser. From and after the Closing, pending receipt or in the absence of any such consent, Sellers will hold the benefit of such Contract that is intended to be an Assumed Contract for Purchaser and subcontract to Purchaser all rights and obligations of Sellers thereunder to the extent allowed by such Contract. As between Sellers and Purchaser, Purchaser will be deemed to have fully assumed Sellers' performance obligations for any such Contract that is intended to be an Assumed Contract at Closing in accordance with this Agreement.

(d) At the Closing, ASARCO shall deliver to Purchaser a statement of any Unpaid Cure Claims Amount (and the Contract(s) corresponding thereto), including a calculation

thereof. Purchaser 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, Purchaser shall provide a written notice to ASARCO of such payment (and the Contract(s) corresponding thereto). To the extent Purchaser pays any Unpaid Cure Claims Amount pursuant to this Section 3.5(d), Sellers shall, within 10 days of receipt of notice from Purchaser delivered in accordance with this Section 3.5(d), reimburse Purchaser in the amount of such payment; provided that, the Plan Confirmation Order shall provide that, as between the Sellers and the counterparty of the underlying Contract, (i) 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 may have related to such Unpaid Cure Claims Amount or the underlying Contract and (ii) ASARCO's right 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 Plan Confirmation Order to so provide shall not relieve the Sellers of their payment obligations as set forth in this Section 3.5(d).

3.6 *Silver Bell.* The parties acknowledge that pursuant to the Silver Bell LLC Agreement, the sale, assignment and transfer by ARSB of its Silver Bell Interests is subject to the consent of the other members of Silver Bell. If such consent is not obtained prior to Closing, then (i) the Silver Bell Interests and Sellers' right in and to the Silver Bell LLC Agreement will each be an Excluded Asset and the shares of capital stock of ARSB will be a Purchased Asset and (ii) references in Section 7.5 to Silver Bell Interests will be deemed to refer to the capital stock of ARSB.

ARTICLE IV PURCHASE PRICE AND PAYMENT

4.1 *Purchase Price.* The total consideration paid by Purchaser to Sellers in consideration of the sale, conveyance, transfer, assignment and delivery of the Purchased Assets is (i) an amount equal to: (A) \$1,100,000,000.00 (the "*Closing Payment*"), plus (B) the Purchaser Promissory Note (collectively, the "*Purchase Price*") and (ii) the assumption by Purchaser of the Assumed Liabilities.

4.2 *Deposit.* Purchaser shall make available to ASARCO funds in the aggregate amount of \$125,000,000.00 (the "*Deposit*") as follows:

(a) Prior to the execution of this Agreement, Purchaser posted a letter of credit (the "*First L/C*") attached as Exhibit O-1 hereto issued in favor of ASARCO by ABN AMRO Bank N.V., Chicago in the amount of \$50,000,000.00. After the entry of the Sterlite Agreed Order by the Bankruptcy Court, Purchaser may amend the First L/C solely to add the following to Annex A of the First L/C: "Funds under the Letter of Credit are payable in accordance with the terms set forth in Section 4.2 of that certain Settlement and Purchase and Sale Agreement, dated as of February __, 2009, among, *inter alia*, the Beneficiary and the Account Party." Purchaser, with the prior written consent of Sellers (which consent shall not be unreasonably withheld), shall have the right to exchange the First L/C for a replacement letter of credit issued by a Qualified Bank in substantially the same form as the First L/C and on terms and conditions reasonably satisfactory to Sellers.

(b) Simultaneously with the execution of this Agreement, Purchaser has posted a second letter of credit (the "**Second L/C**") attached as Exhibit O-2 hereto issued in favor of ASARCO by ABN AMRO Bank N.V., Chicago in the amount of \$50,000,000.00. Purchaser, with the prior written consent of Sellers (which consent shall not be unreasonably withheld), shall have the right to exchange the Second L/C for a replacement letter of credit issued by a Qualified Bank in substantially the same form as the Second L/C and on terms and conditions reasonably satisfactory to Sellers.

(c) As promptly as practicable following (but not later than 5:00 p.m., Dallas, Texas time, on the third Business Day following) the Disclosure Statement Approval Date, Purchaser will post a third letter of credit (the "**Third L/C**") in the form of Exhibit O-3 hereto issued in favor of ASARCO by a Qualified Bank in the amount of \$25,000,000.00 and ASARCO shall have received such originally executed Third L/C enforceable against the issuer thereof. The First L/C, the Second L/C and the Third L/C are collectively referred to herein as the "**Letters of Credit**."

(d) Subject to Section 4.2(h), in anticipation of Closing and upon the agreement of the parties, ASARCO shall draw on the Letters of Credit. All cash received by ASARCO (in immediately available funds in an account designated by ASARCO) prior to or on the Closing Date pursuant to such draw shall be credited against the Closing Payment at Closing and retained by Sellers as a component of the Purchase Price. Alternatively, at least three Business Days prior to the Closing Date, Purchaser may deliver a written notice to ASARCO instructing ASARCO that it shall deliver the full amount of the Closing Payment to ASARCO pursuant to Section 5.3(a) at Closing. In such case, at Closing, upon receipt of the Closing Payment pursuant to Section 5.3(a), ASARCO shall deliver to Purchaser each of the Letters of Credit for return to the issuer thereof for cancellation (or any cash drawn and received pursuant to Section 4.2(h)).

(e) Immediately following the termination of this Agreement due to a material breach by Purchaser or Guarantor of any of their respective representations, warranties or covenants or other agreements hereunder (a "**Purchaser Breach**"), Sellers shall (i) be entitled to receive from Purchaser and retain the Deposit and (ii) be entitled to draw upon all Letters of Credit at anytime thereafter to obtain the Deposit and the receipt by Sellers of immediately available funds in an account designated by ASARCO in an amount equal to the Deposit pursuant to such draw (or any draw pursuant to Section 4.2(h)) shall satisfy Purchaser's payment obligation in clause (i); *provided*, that only \$100,000,000.00 shall be paid to and may be drawn by Sellers if such termination occurs prior to the Disclosure Statement Approval Date.

(f) Immediately following the termination of this Agreement for any reason other than (i) a Purchaser Breach or (ii) by Purchaser pursuant to Section 13.1(j) upon the occurrence of a Manipulative Breach, Sellers shall (x) be entitled to receive from Purchaser and retain \$50,000,000.00, (y) be entitled to draw upon any outstanding Letter of Credit at anytime thereafter to obtain such funds and the receipt by Sellers of immediately available funds in an account designated by ASARCO in an amount equal to \$50,000,000.00 pursuant to such draw (or any draws pursuant to Section 4.2(h)) shall satisfy Purchaser's payment obligation in clause (x)) and (z) as promptly as practicable, and in any event within 10 Business Days, return the Second L/C and (if posted) the Third L/C to the issuer thereof for cancellation (or any cash

drawn (and received) pursuant to Section 4.2(h) in excess of \$50,000,000.00; *provided*, that if (and only if) a Release Condition occurs following the termination of this Agreement, as promptly as practicable, and in any event within 10 Business Days, following the occurrence of such Release Condition, ASARCO shall either (1) return the First L/C to the issuer thereof for cancellation or (2) if Sellers have already drawn on the First L/C, including pursuant to Section 4.2(h), (and received \$50,000,000.00 in respect of such draw), Sellers shall deliver the amount of \$50,000,000.00 to Purchaser and such payment shall be made by wire transfer of immediately available funds to an account designated by Purchaser.

(g) As promptly as practicable, and in any event within 10 Business Days, following the termination of this Agreement by Purchaser pursuant to Section 13.1(j) due to a Manipulative Breach, ASARCO shall return the Letters of Credit to the issuer thereof for cancellation (or any cash drawn and received pursuant to Section 4.2(h)).

(h) At all times the remaining period until the stated expiry of each Letter of Credit shall be at least 30 days. From time to time, Purchaser shall cause the Letters of Credit to be amended to extend the expiry dates thereunder (without any other modifications thereto) in order to comply with the immediately preceding sentence. If at any time the remaining period until the stated expiry of any Letter of Credit is less than 30 days, ASARCO shall be entitled to draw upon such Letter of Credit at anytime thereafter; *provided, however*, that if the parties mutually agree that the Closing is reasonably likely to occur during such 30 day period, then ASARCO shall not draw upon such Letter of Credit until the remaining period until the stated expiry of such Letter of Credit is 20 days or less and all cash received by ASARCO (in immediately available funds in an account designated by ASARCO) prior to or on the Closing Date pursuant to such draw shall be credited against the Closing Payment at Closing and retained by Sellers as a component of the Purchase Price; *provided, further*, that, notwithstanding anything to the contrary contained herein, any cash drawn and received pursuant to this Section 4.2(h) that is to be returned to Purchaser pursuant to any other provision of this Section 4.2 shall be returned to Purchaser immediately.

(i) Notwithstanding anything to the contrary contained herein, except pursuant to Section 4.2(d), any draw upon any of the Letters of Credit shall be approved by the Bankruptcy Court as an act outside the ordinary course of business under 11 U.S.C. § 363(b)(1). For clarification, Sellers' right to draw upon a Letter of Credit is not conditioned upon any other finding by the Bankruptcy Court; *provided, however*, that such Bankruptcy Court approval shall not be required for any draw upon the First L/C prior to the entry of the Sterlite Agreed Order by the Bankruptcy Court.

4.3 *Purchase Price Adjustment.*

(a) No later than 45 days after the Closing Date, Sellers shall deliver to Purchaser a statement (the "*Closing Accounts Statement*") prepared in accordance with the illustration set forth in Exhibit E setting forth (i) the Included Receivables, the Included Payables and the Inventory Amount, each calculated as of the Closing Date, and (ii) a calculation of the Closing Accounts Amount.

(b) From and after the Closing Date until the delivery of the Closing Accounts Statement, Purchaser shall give Sellers reasonable access during normal business hours and upon reasonable notice to the Books and Records, the accounting and other appropriate personnel and the independent accountants of the Business in order to enable Sellers to prepare the Closing Accounts Statement and to calculate the Closing Accounts Amount.

(c) On the date that a binding determination of the Closing Accounts Amount has been made in accordance with Section 4.4, the aggregate principal amount of the Purchaser Promissory Note shall automatically be (i) increased by the Adjustment Amount if the Closing Accounts Amount is greater than the Agreed Working Capital or (ii) decreased by the Adjustment Amount if the Closing Accounts Amount is less than the Agreed Working Capital, in each case without any action on the part of Purchaser or Sellers.

4.4 *Dispute Resolution.*

(a) Purchaser shall be entitled to dispute the calculation of the Closing Accounts Amount set forth in the Closing Accounts Statement if, but only if, Purchaser delivers a written notice (an "*Objection Notice*") to Sellers within 30 days after receipt of the Closing Accounts Statement in which Purchaser objects to the calculation by Sellers of the Closing Accounts Amount and provides a reasonably detailed description of each item to which Purchaser objects, the amount Purchaser believes is correct with respect to each such item and the basis therefor (the date upon which Purchaser delivers an Objection Notice to Sellers being hereinafter referred to as the "*Objection Date*"). If no Objection Notice is delivered within the time required in this Section 4.4(a), the Closing Accounts Statement delivered by Sellers and the calculation of the Closing Accounts Amount set forth therein shall be final and binding on each of the parties.

(b) If Purchaser delivers an Objection Notice to Sellers within the time period specified in paragraph (a) above, Purchaser and Sellers shall attempt in good faith to agree upon the Closing Accounts Amount during the period commencing on the Objection Date and ending 10 days thereafter (the "*Negotiation Period*").

(c) If Purchaser and Sellers agree in writing prior to the expiration of the Negotiation Period on the Closing Accounts Amount, whether such amount is the same as or different from the amount calculated based upon the Closing Accounts Statement, the amount agreed to in writing shall be the Closing Accounts Amount for all purposes hereunder.

(d) If Purchaser and Sellers do not agree in writing prior to the expiration of the Negotiation Period on the Closing Accounts Amount, the items in dispute (but no other

matters) shall be submitted to KPMG LLP or such other firm of independent public accountants as may be mutually agreed between Purchaser and Sellers (in either case, the "*Final Arbiter*"). The Final Arbiter shall make a final and binding determination as to all matters in dispute relating to the calculation of the Closing Accounts Amount as promptly as practicable after its appointment (but no later than 45 days after the date of its appointment). The determination by the Final Arbiter of the amounts in dispute shall be based solely on presentations by Purchaser and Sellers, and shall not involve the Final Arbiter's independent review. Any determination by the Final Arbiter shall not be outside the range defined by the respective amounts proposed by Purchaser and Sellers. The Final Arbiter shall send its written determination of the Included Payables, Included Receivables and Inventory Amount, each calculated as of the Closing Date, to Purchaser and Sellers, together with a calculation of the Closing Accounts Amount that results from such determination, and such determination of the Final Arbiter, and the resulting calculation of the Closing Accounts Amount, shall be binding on the parties, absent fraud or manifest error. The fees and expenses of the Final Arbiter shall be borne equally by Purchaser and Sellers.

4.5 *Allocation of Purchase Price.* Purchaser and Sellers shall use good faith efforts to attempt to reach agreement on the allocation of the Purchase Price and other relevant items (including, for example, the amount of Assumed Liabilities, adjustments to the Purchase Price and other consideration for Tax purposes) among the Purchased Assets, including goodwill and other assets, by the earlier of (x) six (6) months following the Closing Date, and (y) 60 days prior to the extended due date of the federal income tax return which includes the transactions contemplated herein, in accordance with Section 1060 of the Code and the Treasury regulations promulgated thereunder and any comparable provision of state, local or foreign Law, as appropriate (the "*Allocation*"). If Purchaser and Sellers reach a timely agreement regarding the Allocation, (a) such Allocation shall be binding on the parties, (b) the parties shall prepare and timely file all applicable federal and state income Tax forms (including Internal Revenue Service Form 8594) in a manner consistent with the Allocation, cooperate with each other in the preparation of such forms, and furnish each other with a copy of the final version of Form 8594 within a reasonable period before the filing date thereof, and (c) except as otherwise required pursuant to a "determination" within the meaning of Section 1313(a) of the Code (or any comparable provision of any state, local or foreign law), none of the parties shall take a position inconsistent with the Allocation on any Tax Return (including any forms required to be filed pursuant to Section 1060 of the Code), or otherwise. The parties recognize that the Allocation will not include Purchaser's acquisition expenses or Sellers' selling expenses, and Purchaser and Sellers will unilaterally allocate such expenses appropriately. If the parties are unable to reach a timely agreement regarding the Allocation, each party shall be entitled to adopt its own position regarding the Allocation.

ARTICLE V CLOSING

5.1 *Time and Place of Closing.* The closing of the sale and purchase of the Purchased Assets and the assumption of the Assumed Liabilities provided for in Article III (the "*Closing*") shall take place at the offices of Baker Botts L.L.P., located at 2001 Ross Avenue, Suite 1100, Dallas, Texas, at 10:00 a.m. local time, on the second Business Day after the conditions to

Closing set forth in Article XI (excluding conditions that, by their terms, cannot be satisfied until the Closing) have been satisfied (or waived by the party entitled to waive such condition), or at such other place, date and time as the parties may agree.

5.2 *Items to Be Delivered by Sellers.* At the Closing, Sellers shall deliver, or cause to be delivered, to Purchaser the following:

- (a) the Bill of Sale duly executed by Sellers;
- (b) the Assignment and Assumption Agreement duly executed by Sellers;
- (c) for each parcel of Purchased Real Property, a recordable quit-claim deed (collectively, the "*Deeds*") substantially in the forms of Exhibit F-1 through Exhibit F-4 as applicable, executed by the appropriate Seller, with all appropriate notarizations and certifications as required by the applicable Governmental Authority;
- (d) for each parcel of Leasehold Property, a (i) recordable quit-claim deed conveying title to all improvements located on the Leasehold Property (collectively, the "*Leasehold Deeds*") substantially in the form of Exhibit G and (ii) an assignment and assumption agreement for any applicable ground lease agreement relating to such parcel of Leasehold Property substantially in the form of Exhibit H (the "*Assignment and Assumption of Ground Lease Agreement*"), executed by the appropriate Seller, with all appropriate notarizations and certifications as required by the applicable Governmental Authority;
- (e) certificates of title for all motor vehicles identified in Section 3.1(g) of the Seller Disclosure Schedule, each executed by the appropriate Seller and in a form reasonably satisfactory to the appropriate state agencies where such motor vehicles are titled;
- (f) the Transition Services Agreement duly executed by ASARCO;
- (g) a non-foreign affidavit of each Non-Debtor Seller dated as of the Closing Date in form and substance as required under the Treasury regulations issued pursuant to Section 1445 of the Code;
- (h) a certificate signed by a duly authorized representative of each Seller certifying that the closing conditions set forth in Sections 11.2(a) and 11.2(b) have been satisfied;
- (i) certificates of an authorized officer of each Seller to which is attached: (i) true and correct copies of the Organizational Documents of such Seller; (ii) true and correct copies of the resolutions of the Board of Directors for such Seller respecting the transactions contemplated by this Agreement and the Ancillary Agreements; (iii) a certificate respecting the incumbency and true signatures of the officers of such Seller who execute this Agreement and other transaction documents on behalf of such Seller; and (iv) a certificate from the Secretary of State or other applicable Governmental Authority of the State of formation or incorporation, as applicable, dated within 10 days of the Closing Date, with respect to the existence and good standing of such Seller. The certificates required pursuant to this Section 5.2(i) shall certify that the documents referred to in (i) and (ii) above and attached thereto are true and correct copies,