

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

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

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**DISCLOSURE STATEMENT IN SUPPORT OF ASARCO  
INCORPORATED AND AMERICAS MINING CORPORATION'S THIRD  
AMENDED PLAN OF REORGANIZATION FOR THE DEBTORS UNDER  
CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

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Dated: May 15, 2009

**THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF ASARCO  
INCORPORATED AND AMERICAS MINING CORPORATION'S THIRD AMENDED PLAN OF  
REORGANIZATION FOR THE DEBTORS UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY  
CODE. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE  
STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT  
IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE COURT.**

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**DISCLOSURE STATEMENT EXHIBITS**

Exhibit Designation	Exhibit Title
Parent's DS Exhibit A	Uniform Glossary of Defined Terms for Plan Documents
Parent's DS Exhibit B	Asarco Incorporated and Americas Mining Corporation's Third Amended Plan of Reorganization for the Debtors Under Chapter 11 of the United States Bankruptcy Code
Parent's DS Exhibit C	Order Approving the Disclosure Statement
Parent's DS Exhibit D	Parent's Liquidation Analysis
Parent's DS Exhibit E	Estimated Administrative Expenses of the Trusts and the Debtor's Plan Administrator
Parent's DS Exhibit F	Curriculum Vitae of the FCR, Judge Robert C. Pate
Parent's DS Exhibit G	Financial Information Regarding Debtors

## INTRODUCTION

*This Disclosure Statement is intended to be read jointly and in conjunction with the Debtors' Disclosure Statement, such that holders of Claims, Demands and Interests will be informed about both the Parent's Plan and the Debtors' Plan when voting on and/or making elections with respect to each such Plan. As is explained below, for general historical and financial information about the Debtors, parties in interest should refer to the Debtors' Disclosure Statement. Please consult the Uniform Glossary of Defined Terms for Plan Documents, attached as **Parent's DS Exhibit A** to this Disclosure Statement, for the meanings of capitalized terms not otherwise defined herein.*

ASARCO Incorporated and Americas Mining Corporation ("**AMC**") and together with ASARCO Incorporated, the "**Parent**") are proposing a plan of reorganization (the "**Parent's Plan**," a copy of which is attached hereto as **Parent's DS Exhibit B**) for the Debtors. ASARCO Incorporated is a Delaware corporation which owns 100% of the outstanding interests in ASARCO USA Incorporated, which in turn owns 100% of the outstanding interests in ASARCO. AMC, a wholly-owned subsidiary of Grupo México S.A.B. de C.V., is a Delaware corporation which owns 100% of the capital stock of ASARCO Incorporated. ASARCO Incorporated and AMC have the requisite corporate authority, and have complied with the corporate formalities, necessary to execute the Parent's Plan.

The purpose of the Disclosure Statement is to set forth information (a) concerning the Parent's Plan and alternatives to the Parent's Plan; (b) concerning the rights of holders of Claims, Demands and Interests under the Parent's Plan; (c) to assist holders of Claims, Demands and Interests in comparing the Parent's Plan and the Debtors' Plan; (d) to assist holders of Claims, Demands and Interests that are entitled to vote on or make elections with respect to the Parent's Plan in voting and/or making such elections; and (e) to assist the Bankruptcy Court in determining whether the Parent's Plan complies with the provisions of the Bankruptcy Code and should be confirmed.

This Disclosure Statement is not intended to replace a careful and detailed review and analysis of the Parent's Plan, but instead is intended only to aid and supplement that review. Any description of the Parent's Plan herein is a summary only. Holders of Claims, Demands and Interests and other parties in interest are cautioned to review the Parent's Plan and any related attachments in their entirety for a full understanding of the Parent's Plan's provisions. This Disclosure Statement is qualified in its entirety by reference to the full text of the Parent's Plan and the exhibits and attachments thereto. If any inconsistency exists between the terms of the Parent's Plan and this Disclosure Statement, the terms and provisions of the Parent's Plan will control.

Substantially all of the historical, factual, and financial information contained in this Disclosure Statement, including financial projections and forward-looking statements, have been prepared from information provided by the Debtors and their advisors, and the Parent relied upon the Debtors with respect to such information and did not independently verify such information in preparing this Disclosure Statement. Accordingly, the Parent cannot make any representations or provide any warranties as to the accuracy or completeness of any such information. The information, projections, forecasts, estimates, and assumptions provided, or statement made by, the Debtors or their professionals may prove to be wrong or materially different from actual future results, and there can be no assurance that such statements will be reflective of actual outcomes. The statements contained in this Disclosure Statement, moreover, are made as of the date hereof unless otherwise specified herein, and the delivery of this Disclosure Statement does not imply that there has been no change in the information set forth herein since such date.

Holders of Claims, Demands and Interests are encouraged to read and carefully consider the matters described in this Disclosure Statement, paying careful attention to Sections 3 (Summary of the Proposed Parent's Plan) and 7 (Risks of the Parent's Plan) of this Disclosure Statement. Prior to voting on and/or making elections with respect to the Parent's Plan, each holder of a Claim or Demand should consult such holder's attorney, accountant, tax advisor, and financial advisor as to the effect of the Parent's Plan on such holder, including, without limitation, the tax effects. In making a voting or election decision, each holder must rely on such holder's own examination of the Debtors and the terms of the Parent's Plan, including the merits and risks involved.

This Disclosure Statement may not be relied upon for any purpose other than to determine whether to accept or reject and/or make elections with respect to the Parent's Plan, and nothing contained herein shall constitute an admission of any fact or liability by any party, or be admissible in any proceeding involving the Debtors, the Parent or any other party, or be deemed evidence of the tax or other legal consequences or effects of the reorganization of the Debtors.

**SUMMARY OF VOTING PROCEDURES**

**[To come when the Parent and Debtors file a Joint Disclosure Statement]**

## OVERVIEW OF THE PROPOSED PLAN

The following is a brief summary of certain material provisions of the Parent's Plan. By necessity, this summary is incomplete and is qualified in its entirety by reference to the more detailed information appearing elsewhere in this Disclosure Statement, the attached exhibits, and the Parent's Plan and the exhibits thereto, as amended from time to time. Please read the entire Disclosure Statement and the Debtors' Disclosure Statement carefully before deciding how to vote because your rights may be affected by implementation of the Parent's Plan.

The Parent has proposed a plan of reorganization for the Debtors that is premised upon the Parent contributing new value to the Debtors' Estates in the form of the \$1.3 billion Parent Contribution, in exchange for New Equity Interests in Reorganized ASARCO. Pursuant to the Agreement in Principle (as defined below), the Parent will establish an escrow account with the Bank of New York into which it will deposit the Parent Contribution in Cash or cash equivalent (which may include unencumbered shares of Southern Copper Corporation) no later than May 26, 2009. The escrow agreement will be in form and substance satisfactory to the asbestos representatives. As additional consideration for the New Equity Interests, if the Parent's Plan is confirmed, the Parent and the Parent's Affiliates will waive all Administrative and General Unsecured Claims against the Debtors, the Parent will cause the Tax Refund to be transferred to Reorganized ASARCO, the Parent will provide for distributions for holders of Asbestos Personal Injury Claims and Demands (in addition to other consideration set forth in the Parent's Plan) in the form of a \$250 million ASARCO Note supported by a pledge of 51% of the New Equity Interests, the Parent will cause Reorganized ASARCO to retain the Debtors' liabilities with respect to reinstated Claims, if any, and the Parent will cause Reorganized ASARCO to assume the Debtors' environmental liabilities with respect to the Owned Strategic Properties and other Real Property. In addition, the Distributable Cash will be made available for distribution under the Parent's Plan. Furthermore, a possible claim against Sterlite of up to \$3.0 billion will be available to fund the working capital needs of Reorganized ASARCO.

If approved, the Parent's Plan will implement a reorganization that will address the Debtors' liabilities, including environmental and asbestos-related liabilities, in a comprehensive and complete manner. The Parent has sought to formulate a plan of reorganization that is fair and equitable to all parties in interest, while allowing the Debtors to restructure and channel all unsecured asbestos-related Claims and Demands against the Debtors to a trust. The Parent believes that these objectives have been met, and that the Parent's Plan provides for the maximum recoveries to, and expeditious and equitable treatment of, all holders of Claims.

Under the Parent's Plan, the Parent's Plan Administrator appointed by the Parent and approved by the Bankruptcy Court will hold the Parent Contribution, the Distributable Cash, and all non-cash assets available for distribution under the Parent's Plan, and will be responsible for making all distributions under the Parent's Plan and prosecuting objections to Claims.

Various trusts will be established under the Parent's Plan to liquidate certain of the Debtors' assets, assume certain of the Debtors' liabilities, and/or assume responsibility for distributions to certain Classes of Claims and Demands, including the Section 524(g) Trust, the Environmental Liquidation Trust and/or the Environmental Custodial Trusts.

Under the Parent's Plan, on the Effective Date, holders of Allowed Administrative, Priority Tax, and Priority Claims will be Paid in Full. Holders of Allowed Secured Claims, at the election of the Parent, will receive Cash equal to the value of the Collateral Securing such Secured Claims, be Reinstated, or receive the Collateral securing such Secured Claims. Bondholder Claims will receive Cash equal to 75% of the principle amount of such Bondholder Claims. Asbestos Personal Injury Claims and Demands will be channeled to, assumed, and satisfied by a Section 524(g) Trust funded with \$500 million in Cash, the \$250 ASARCO Note, the Asbestos Insurance Recoveries, and \$27.5 million administrative funding. Allowed General Unsecured Claims will receive Cash equal to 75% of the Allowed amounts of such General Unsecured Claims. Allowed Environmental Unsecured Claims will receive Cash equal to 75% of the amount of such Environmental Unsecured Claims. Environmental Trust Claims will be Reinstated and assumed by the Environmental Liquidation Trust or, at the unanimous election of the federal and state agencies holding Environmental Trust Claims with respect to an applicable Designated Property, such Designated Property will be transferred to, and all environmental liabilities associated with such Designated Property will be assumed by, the applicable Environmental Custodial Trust in accordance with the applicable Environmental Custodial Trust Agreement. Environmental Reinstated Claims will be Reinstated and satisfied by Reorganized ASARCO in the ordinary course. Late Filed and Subordinated Claims will not receive any distributions under the Parent's Plan. Finally, under the Parent's Plan, Interests in ASARCO will be canceled and, in exchange for the Parent Contribution, ASARCO Incorporated or its designee will receive the New Equity Interests.

Following the implementation of the Parent's Plan, Reorganized ASARCO will remain liable for Reinstated Environmental Claims, any Reinstated Claims, and its obligations under the \$250 million ASARCO Note. The Parent's Plan's definition of "Reinstatement" mirrors section 1124(2) of the Bankruptcy Code, which provides requirements for reinstating classes of claims and interests without impairing them. The Parent is confident there will be sufficient cash to address all Reinstated obligations in the ordinary course of business.

### Unclassified Claims

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified. For a discussion of certain additional matters related to Administrative Claims and Priority Tax Claims, see Section 3.3(a) and (b) hereof. Demands are not Claims for purposes of the Bankruptcy Code; however, under the Parent's Plan, Demands will receive the same treatment as Class 4 Asbestos Personal Injury Claims and, accordingly, are included with Class 4 Asbestos Personal Injury Claims in the chart below. The estimated aggregate amounts of Administrative, Priority Tax, Priority, Secured, and Late-Filed Claims set forth below in each Class is derived from the Debtors' Disclosure Statement and have not been independently verified by the Parent.

<b>Description and Estimate of Claims</b>	<b>Description of Distributions or Treatment Under the Parent's Plan</b>	<b>Debtors' Estimated Aggregate Amount of Claims</b>	<b>Estimated Percentage Recovery Under the Parent's Plan</b>
Administrative Claims	<p>Shall be Paid in Full, in Cash, on the later of the Effective Date or the date on which such Administrative Claim becomes an Allowed Claim; <u>provided, however</u>, that (a) Allowed Administrative Claims representing (1) post-petition liabilities incurred in the ordinary course of business by any 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 by Reorganized ASARCO 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 a Final Order of the Bankruptcy Court. The Settled Asbestos Insurance Companies shall each have an Allowed Administrative Claim for the Pre-524(g) Indemnity, in accordance with the terms and conditions of the Asbestos Insurance Settlement Agreement.</p> <p>Any Administrative Claims of the United States or any individual state under civil Environmental Laws relating to the Designated Properties are treated in Class 7 and are not included here.</p>	\$183.5 million to 192.5 million	100%
Priority Tax Claims	Shall (1) be Paid in Full, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date upon which such Priority Tax Claim becomes an Allowed Claim, or (2) receive treatment in any other manner such that its Allowed Priority Tax Claim shall not be impaired pursuant to section 1124 of the Bankruptcy Code, including, but not limited to, payment in accordance with the provisions of section 1129(a)(9)(C) of the Bankruptcy Code.	\$4 million	100%
Demands	Shall be accorded the Section 524(g) Treatment provided to Class 4 Asbestos Personal Injury Claims, and shall be determined, processed, liquidated and paid pursuant to the	N/A	75%



Description and Estimate of Claims	Description of Distributions or Treatment Under the Parent's Plan	Debtors' Estimated Aggregate Amount of Claims	Estimated Percentage Recovery Under the Parent's Plan
	<p>terms and conditions of the Section 524(g) Trust Distribution Procedures and the Section 524(g) Trust Agreement.</p> <p>The FCR is entitled to make an election regarding whether to accept or reject the Section 524(g) Treatment, <u>provided</u>, <u>however</u>, that, under the Asbestos/AMC/Parent Agreement in Principle, the FCR agreed to support the Parent's Plan including the Section 524(g) Treatment.</p>		

**Classified Claims and Interests**

Description and Estimate of Claims	Description of Distributions or Treatment Under the Parent's Plan	Status	Debtors' Estimated Aggregate Amount of Claims	Estimated Percentage Recovery Under the Parent's Plan
Class 1 – Priority Claims	Shall be Paid in Full, in Cash, on the later of the Effective Date or the date on which such Priority Claim becomes an Allowed Claim.	<p><b>Unimpaired.</b></p> <p>Deemed to Accept the Parent's Plan.</p> <p>Not Entitled to Vote.</p>	<i>De Minimis</i>	100%
Class 2 – Secured Claims	<p>Shall, in full satisfaction, settlement, release, extinguishment and discharge of such Claim, (1) be paid, in Cash, the full value of the Collateral securing such Allowed Secured Claim on the later of the Effective Date or the date on which such Secured Claim becomes due in the ordinary course, (2) be Reinstated, (3) receive from Reorganized ASARCO all Collateral securing such Allowed Secured Claim, or (4) receive such other treatment as may be agreed upon between the Parent and the holder of such Allowed Secured Claim.</p> <p>Secured Asbestos Personal Injury Claims which are secured by Liens against proceeds of an Asbestos Insurance Policy shall be included in the treatment accorded Class 4 Asbestos Personal Injury Claims, as set forth in Article 4.2(d) of the Parent's Plan, and shall be determined, processed, liquidated, and paid pursuant to the terms and conditions of the Asbestos TDP and the Asbestos Trust Agreement.</p>	<b>Will Vote, But Only the Votes of Claimants Receiving the Cash Payment Option Will Be Counted</b>	\$0 to \$5 million	100% or reinstated

Description and Estimate of Claims	Description of Distributions or Treatment Under the Parent's Plan	Status	Debtors' Estimated Aggregate Amount of Claims	Estimated Percentage Recovery Under the Parent's Plan
Class 3 – Bondholder Claims	Shall receive Cash in an amount equal to 75% of each Allowed Bondholder Claim. Parent reserves right to Reinstate one or more Bond Issuances.	<b>Impaired</b>  Entitled to vote.	\$439.8 million	75%
Class 4 – Asbestos Personal Injury Claims, and Demands	Shall together be allowed in the aggregate amount of one billion dollars (\$1.0 billion). On the Effective Date, the Section 524(g) Trust shall be established and funded with the Section 524(g) Trust Assets, consisting of \$500.0 million in cash, a secured one-year note in the principal amount of \$250.0 million, additional cash in the amount of \$27.5 million for the expenses of administering the Section 524(g) Trust, and the proceeds of specified insurance coverage litigation. In exchange, Reorganized ASARCO, the Parent and other specified parties will receive the benefit of a section 524(g) channeling injunction	<b>Impaired</b>  Entitled to vote.	\$1.0 billion	75%
Class 5 – General Unsecured Claims	Shall receive Cash in an amount equal to 75% of each Allowed General Unsecured Claim.	<b>Impaired</b>  Entitled to vote.	\$264.6 million to \$381.8 million	75%
Class 6 – Environmental Unsecured Claims	Shall receive Cash in an amount equal to 75% of each Allowed Environmental Unsecured Claim.	<b>Impaired</b>  Entitled to vote.	To be determined, but no more than \$1,357.9 million	75%
Class 7 – Environmental Trust Fund Claims	<p>Shall, on the Effective Date, be Reinstated, assumed by the Environmental Liquidation Trust, and administered in accordance with the Environmental Liquidation Trust Agreement; <u>provided, however</u>, that at the unanimous election (to be effected through an election on the applicable Ballot) of each federal and state agency holding an Allowed Environmental Trust Claim with respect to an applicable Designated Property, such Designated Property shall be transferred to, and all environmental liabilities associated with such Designated Property shall be assumed by, the applicable Environmental Custodial Trust in accordance with the applicable Environmental Custodial Trust Agreement.</p> <p>In unanimously electing a Designated Property to be transferred to an Environmental Custodial Trust (each property so transferred, a “<u>Designated Elected Property</u>”), all federal and state agencies holding an Allowed Environmental Trust Claim with respect to such Designated Elected Property shall agree that all Environmental Trust Claims with respect to such Designated Elected Property shall be assumed by the applicable Environmental Custodial Trust and such federal and state agencies shall have no further</p>	<p><b>Unimpaired</b></p> <p>Deemed to accept the Parent's Plan.</p> <p>Note entitled to vote.</p> <p>The federal and state agencies with Environmental Trust Claims with respect to any Designated Property may unanimously elect to have such Designated Property transferred to an Environmental Custodial Trust.</p>	To be determined, but no more than \$261.3 million	Reinstated or Transferred to the Custodial Trust(s)

Description and Estimate of Claims	Description of Distributions or Treatment Under the Parent's Plan	Status	Debtors' Estimated Aggregate Amount of Claims	Estimated Percentage Recovery Under the Parent's Plan
	claims against the ASARCO Protected Parties in connection with such Designated Elected Property.			
Class 8 – Environmental Reinstated Claims	Shall, on the Effective Date, be Reinstated and, from and after the Effective Date, Reorganized ASARCO shall assume, pay, perform and discharge when due all of its Assumed Environmental Liabilities.	<b>Unimpaired</b>  Deemed to accept the Parent's Plan.	N.A.	Reinstated
Class 9 – Late-Filed Claims	Shall not receive or retain any property under the Parent's Plan on account of such Claims.	<b>Impaired</b>  Deemed to reject the Parent's Plan	\$10 to \$26 million	0.0%
Class 10 – Subordinated Claims	Shall not receive or retain any property under the Parent's Plan on account of such Claims.	<b>Impaired</b>  Deemed to reject the Parent's Plan	<i>De minimis</i>	0.0%
Class 11- Interests in ASARCO	Shall be deemed cancelled, and the holder of such Interests shall not receive or retain any property under the Parent's Plan on account of such Interests.	<b>Impaired</b>  Deemed to reject the Parent's Plan	N.A.	0.0%

SECTION 1  
GENERAL INFORMATION AND HISTORICAL BACKGROUND

**For a general discussion of the history and business activities of the Debtors, and a discussion of current management from the Debtors' perspective, please refer to the Debtors' Disclosure Statement. The Parent takes no position (except as set forth in this Section 1) with respect to the Debtors' descriptions and statements.**

1.1 Sale of Interests in Southern Copper Company.

In 2002 to 2003, in order to improve its balance sheet, ASARCO and SPHC determined to sell SPHC's controlling 54.2% interest in Southern Peru Copper Corporation (now known as Southern Copper Corporation ("SCC")) to AMC, another of Grupo México's subsidiaries (the "Transaction"). The DOJ filed suit to enjoin the Transaction. The DOJ settled the suit, agreeing to dismiss its request for an injunction and providing ASARCO a three-year limitation regarding enforcement of certain Environmental Claims in exchange for the restructuring of the terms of the proposed Transaction, including the addition of a \$100 million promissory note assigned to an environmental trust. In addition to funding the trust as part of the Transaction, AMC gave ASARCO a note with a nominal value of \$123 million and forgave intercompany debt of \$41.75 million. It was a condition of the settlement with the DOJ that ASARCO obtain a reasonably equivalent value opinion with respect to the consideration provided by AMC as part of the Transaction. Such an opinion was obtained from Ernst & Young Corporate Finance with respect to the consideration SPHC was receiving as part of the Transaction.

1.2 Environmental Claims.

As set forth in great detail in the Debtors' Disclosure Statement, numerous Environmental Unsecured Claims have been asserted against ASARCO under Environmental Law by the federal government, as well as a number of state and local governments, Indian tribes and private persons. As with the Derivative Asbestos Claims, all parties agreed initially that, without resolving or at least estimating these Claims, no reorganization plan for the Debtors could be formulated or confirmed. The Debtors' Disclosure Statement states that the aggregate amount of **asserted** environmental claims (when analyzed to eliminate obvious duplication) is approximately \$6.5 billion. Case management orders have been entered to facilitate the resolution of Environmental Unsecured Claims, establishing procedures for estimating claims filed by the federal and state governments and PRPs. See Section 2.3 below for a further discussion of environmental issues from the Parent's perspective.

SECTION 2  
EVENTS DURING THE REORGANIZATION CASES

**For a general discussion of the events during the Reorganization Cases from the Debtors' perspective, please refer to the Debtors' Disclosure Statement. The Parent takes no position (except as set forth in this Section 2) with respect to the Debtors' descriptions and statements.**

2.1 Corporate Governance.

As of its Petition Date, ASARCO was operating under that certain Limited Liability Company Agreement, dated February 4, 2005, that provided for management of ASARCO to be vested in a board of directors (the "Board"). On December 15, 2005, the Bankruptcy Court approved a Stipulation and Order Regarding Corporate Governance (the "Corporate Governance Stipulation"), agreed to by the Committees, the FCR, ASARCO, the Parent, and Carlos Ruiz Sacristan, who was the only member of the Board at the time. Pursuant to the Corporate Governance Stipulation, the Parent currently does not have the normal unilateral power of a sole owner to replace the members of ASARCO's board of directors. Given the inability of the Parent to remove and replace directors at will, the majority of the Board has caused ASARCO to pursue certain actions that, in the Parent's view, are inconsistent with their fiduciary duties to the Parent.

2.2 Brownsville Litigation

On February 2, 2007, ASARCO filed an action against AMC (the "Brownsville Litigation"), seeking to avoid the Transaction as an actual and/or constructively fraudulent transfer, and seeking the return of its interest in SCC.

As a result of stock splits and similar subsequent transactions involving SCC, the stock at issue constitutes 260,093,694 shares, which is approximately 29.5% of the currently outstanding stock in SCC (the "Transferred Shares"). ASARCO also seeks to recover any dividends it would have received on account of its ownership of the Transferred Shares since the transfer in 2003. In the lawsuit, ASARCO and SPHC asserted the following additional causes of action against AMC: (1) civil conspiracy; (2) breach of fiduciary duty; (3) aiding and abetting a breach of fiduciary duty; and (4) punitive damages.

On August 30, 2008, the United States District Court for the Southern District of Texas, Brownsville Division, issued an opinion holding that (a) AMC paid reasonably equivalent value in the 2003 transfer of the Transferred Shares, (b) the sale of the Transferred Shares was a legitimate means by which to restructure ASARCO, (c) neither AMC nor Grupo Mexico owed a fiduciary duty to ASARCO or its creditors such that AMC was not liable for a breach of such duty nor aiding and abetting a breach, (d) AMC was not liable for a conspiracy with Grupo Mexico, and (e) the plaintiffs failed to establish that AMC engaged in conduct sufficient to warrant punitive damages. The Parent agrees with these portions of the court's opinion, and believes that the court's rulings on these issue are proper.

The court also found, however, that the transfer was accomplished in part to hinder or delay creditors, thus constituting an actual fraudulent transfer, and that AMC aided and abetted ASARCO's directors' breach of their fiduciary duties to ASARCO's creditors and engaged in a conspiracy with ASARCO's directors. The Parent disagrees with the Court's determinations that the transfer constituted an actual fraudulent transfer and that AMC aided and abetted ASARCO's directors' breach of their fiduciary duties to ASARCO's creditors and engaged in a conspiracy with ASARCO's directors; the Parent is confident that it has strong arguments to challenge the Court's findings on appeal.

On April 1, 2009, the court issued a Memorandum Order and Opinion regarding the damages to be awarded to the plaintiffs (the Court issued an Amended Memorandum Opinion and Order to correct a clerical error in the April 1 order and opinion, and on April 15, 2009, the Court issued its Final Judgment (the "Final Judgment"). The court awarded to ASARCO (i) the return of the Transferred Shares, and (ii) the dividends paid on the Transferred Shares between March 31, 2003 and the present plus prejudgment interest, minus the consideration paid by AMC and prejudgment interest on such consideration, resulting in an award to ASARCO of \$1,382,307,216.75. The court found that ASARCO was not entitled to damages representing a control premium, because ASARCO would never have retained control over SCC.

On April 15, 2009, the court entered an Agreed Order which (i) stays execution or enforcement of the Final Judgment through June 5, 2009 (the "Agreement Period"), (ii) bars AMC from transferring, selling, exchanging, disposing of or encumbering the Transferred Shares during the Agreement Period, (iii) bars AMC from removing the Transferred Shares from the United States during the Agreement Period, and (iv) bars AMC from voting any SCC shares in such a way that would hinder, delay, or negate ASARCO's recovery of the Transferred Shares, dilute the Transferred Shares, or otherwise diminish the value of the Transferred Shares during the Agreement Period.

On April 24, 2009, AMC filed its Notice of Appeal to the United States Court of Appeals for the Fifth Circuit. On April 29, 2009, AMC filed a Motion for a New Trial and also filed a Motion for Stay of Execution of Judgment Pending Appeal, which ASARCO has indicated it will oppose. AMC believes that Judge Hanen's findings are erroneous and contradictory and remains confident that it has strong arguments on appeal and for a new trial.

### 2.3 Environmental Issues.

Prior to scheduled environmental estimation hearings, settlements were reached with respect to 19 environmental sites, resolving \$3 billion in environmental claims for approximately \$532.1 million in allowed unsecured claims or cash. By mid-October of 2007, estimation proceedings with respect to claims relating to the Residual Environmental Sites and asserted in an original amount of approximately \$3 billion were completed, and decisions were pending. No further proceedings are required for the Bankruptcy Court to rule on the estimation of the Residual Environmental Site claims.

Thereafter, the DOJ attended the mediation before Judge Magner and the Debtors and the DOJ requested that the Bankruptcy Court defer ruling on the Residual Environmental Claims. After the Debtors decided not to proceed to a ruling on the Residual Environmental Claims, only minimal, if any, further action was taken to estimate the other Environmental Unsecured Claims. The Debtors, the federal government, and various state governments ultimately entered into several additional global environmental settlements.

On March 12, 2009, the Environmental 9019 Motion, requesting the Bankruptcy Court to approve the terms of five consent decrees settling nearly all major outstanding environmental claims (including the settlement of the Residual Environmental Claims). The consent decrees presented to the Bankruptcy Court propose to pay approximately \$1.1 billion to settle the Debtors' liabilities in connection with: (1) Miscellaneous Federal and State Environmental Settlement, (2) Multi-State Custodial Trust Settlement, (3) Montana Custodial Trust Settlement, (4) Texas Custodial Trust Settlement, and (5) the Residual Environmental Settlement.

The Parent opposes the grossly inflated settlements of the unresolved environmental claims set forth in the 9019 Motion and filed an objection on April 6, 2009 urging the Bankruptcy Court to deny the 9019 Motion. Specifically, the Parent believes that the settlement of the federal government's claims with respect to the Omaha Site should be rejected due to the EPA's failure to account for the central role of lead-based paint, as opposed to aerial emissions from the former ASARCO refinery, in causing lead contamination at that site. The Parent also believes that the EPA's response costs at the Omaha Site are not recoverable because the EPA is implementing a largely ineffective soil replacement remedy which violates applicable federal regulations and is inconsistent with CERCLA. The settlement of the federal government's claims with respect to the Coeur d'Alene Site is grossly inflated because it allocates \$67.5 million for restoration of natural resources, relying on an invalid baseline analysis that does not comply with applicable federal regulations. Finally, the Parent objects to the Environmental Custodial Trust Settlements because (1) the Debtors propose to settle their liabilities at the Custodial Trust Settlement Sites for tens of millions more than their own expert's "Reasonable Worst Case" cost estimate; (2) the settlements fail to account for the contribution to environmental harm at these sites of non-settling PRPs, attributing 100% of clean-up costs to the Debtors, (3) the settlements do not reflect any underlying resale value that may be realized from future sale or lease of the properties, and (4) the Debtors propose to pay for the demolition of buildings on seven Environmental Custodial Trust Sites despite clear evidence that costs associated with demolition are not recoverable under CERCLA.

The Parent proposes to conclude the Debtor's estimation of the unresolved environmental claims and to pay, in cash, the aggregate amount determined by the Bankruptcy Court's final order. Those estimations that have previously been concluded would also be Paid in Full, in Cash, on the Effective Date of the Parent's Plan. Additionally, the Parent intends to have Reorganized ASARCO comply with the terms of the environmental settlements approved to date.

#### 2.4 Asbestos Related Claims and Demands.

Approximately 102,000 Claimants filed asbestos-related Claims or submitted electronic claims data against ASARCO and/or one or more of the Asbestos Subsidiary Debtors. In a number of these claims, as well as in repetition lawsuits, ASARCO was alleged to be liable, under various Alter Ego Theories, for the asbestos liabilities of certain of its subsidiaries (the "Derivative Asbestos Claims"). ASARCO has denied liability for such Derivative Asbestos Claims.

On June 15, 2005, ASARCO filed a complaint initiating Adversary Proceeding No. 05-02048 against the Asbestos Subsidiary Debtors and the FCR, seeking a declaration that it was not liable for the Derivative Asbestos Claims. Pursuant to a stipulation approved on April 25, 2006, the Asbestos Subsidiary Debtors and the FCR were authorized to take the lead role in the prosecution of this action on behalf of the Asbestos Subsidiary Debtors' Estates, and to prosecute all claims, defenses, and counterclaims against ASARCO related to the Derivative Asbestos Claims.

In March 2006, ASARCO filed a motion seeking an estimation of the amount of ASARCO's liability, if any, for the Derivative Asbestos Claims, and proposing a procedure for such estimation proceedings (the "Asbestos Contested Matter"). Objections to the estimation motion were filed by the Asbestos Claimants' Committee, the FCR, and other parties. The Parent was a participant in the Asbestos Contested Matter.

On May 9, 2006, the Asbestos Subsidiary Debtors and the FCR filed their Amended Complaint Realigning Parties and Seeking to Hold ASARCO LLC Liable for Tort Liabilities of the Subsidiary Debtors. In the amended complaint, they sought a judgment declaring that ASARCO was liable for the Asbestos Subsidiary Debtors' asbestos-related liabilities under Alter Ego Theories.

Thereafter, ASARCO reached an agreement with the Asbestos Claimants' Committee and the FCR regarding some aspects of the procedure for resolution of the Derivative Asbestos Claims. Their settlement agreement provided for a stipulated process under section 502 of the Bankruptcy Code to establish the aggregate amount of

ASARCO's liability, if any, for the Derivative Asbestos Claims. This amount, if any, was to be incorporated into ASARCO's plan of reorganization and used for all purposes related to plan confirmation. The Bankruptcy Court approved the settlement agreement on March 20, 2007.

On March 5, 2007, the parties submitted their estimates of the maximum aggregate asbestos-related liability of the Asbestos Subsidiary Debtors as of April and August 2005, the respective petition dates of the Asbestos Subsidiary Debtors and ASARCO. The estimates ranged from \$180 million to \$2.655 billion, not including the Asbestos Premises Liability Claims, Demands, or the costs of defense.

By order dated September 20, 2007, the Bankruptcy Court appointed the Honorable Elizabeth W. Magner, United States Bankruptcy Judge for the Eastern District of Louisiana, to mediate the estimation of the Derivative Asbestos Claims. Mediation talks began in October 2007, and continued through January 2008. The Debtors and the other parties to the mediation asked the Bankruptcy Court to postpone the estimation hearing, which was set to begin on January 2, 2008. The focus of the discussions expanded from the Derivative Asbestos Claims to encompass a consensual plan of reorganization, and Judge Magner encouraged a dialogue among ASARCO and certain key constituencies. The mediation resulted in the development of a proposed global resolution of the Debtors' asbestos and environmental liabilities, which was not shared with the Parent. The agreement regarding the resolution of the Debtors' asbestos liability was incorporated into the plan of reorganization originally proposed by the Debtors that was ultimately withdrawn in October 2008.

The Parent made every attempt to participate in the mediation but was consistently denied any meaningful input. Accordingly, the Parent had to undertake an independent review of the proofs of claim that were filed against the Debtors asserting asbestos liability. In April 2008, with the Bankruptcy Court's approval, the Parent began filing objections to asbestos-related proofs of claim (under seal in order to prevent disclosure of the asbestos claimants' confidential medical information and social security numbers). The Debtors, the Asbestos Claimants' Committee, the FCR, and certain asbestos claimants filed responses contesting the Bankruptcy Court's jurisdiction to adjudicate asbestos-related claims. The objecting parties also protested that the Parent should not be allowed to object to such claims on an individual basis alleging that such process was not efficient. The Bankruptcy Court conducted a hearing on June 6, 2008 to consider these arguments, requested briefing on whether it had jurisdiction to decide challenges to the validity of asbestos-related proofs of claim, heard additional arguments on July 15, 2008, and took the matter under advisement. The Parent ultimately filed objections to 65 asbestos-related claims. As a result of the Parent's objections, 58 of those claims were withdrawn or expunged by the Bankruptcy Court.

On August 26, 2008, the Parent filed a motion seeking to have the Bankruptcy Court estimate the maximum amount of Asbestos Personal Injury Claims for purposes of distributions under the competing plans proposed by the Debtors and the Parent. The Debtors, the FCR, the Asbestos Claimants' Committee, and the United States opposed the Parent's estimation motion. At the hearing held on the motion on September 23, 2008, the Bankruptcy Court declined to establish an estimation procedure and ruled that estimation issues would await plan confirmation.

In short, the asbestos claims have never been adjudicated. The Asbestos Subsidiary Committee and the FCR assert that compelling evidence demonstrates that ASARCO's derivative asbestos liability should be estimated at more than \$2.1 billion. ASARCO is now seeking an estimation of the amount of the Derivative Asbestos Claims and of any direct Asbestos Claims against ASARCO. The Bankruptcy Court has scheduled a hearing on June 22, 2009 to estimate ASARCO's liability for the Derivative Asbestos Claims, if any. ASARCO has requested that the estimation proceeding include all direct Asbestos Personal Injury Claims against ASARCO so that ASARCO's total asbestos-related liability is estimated at this hearing.

Faced with uncertainty as to the amount of asbestos claims due to the rejection of its efforts to estimate or litigate the claims, and substantial risk with respect to the asserted Alter Ego Theories, the Parent has negotiated an agreement with the FCR and the Asbestos Claimants' Committee regarding the treatment of asbestos claims under the Parent's Plan (the "Agreement in Principle"). The Asbestos Claimants' Committee filed a redacted copy of the Agreement in Principle with the Bankruptcy Court on April 17, 2009 [Docket No. 10873]. The terms of the Agreement in Principle have been incorporated into the Parent's Plan. In summary, under the Parent's Plan, contingent asbestos claims will be allowed in the aggregate amount of \$1 billion. These claims will be channeled to a trust funded with (1) \$500 million in cash; (2) \$27.5 million earmarked for administrative costs of the trust; (3) a one-year, \$250 million promissory note from Reorganized ASARCO bearing interest at 6 percent and secured by a first lien on all of Reorganized ASARCO's assets and a pledge from the Parent of 51 percent of the equity interests in Reorganized ASARCO; and (4) rights to insurance

proceeds with respect to asbestos claims. As a result of the Agreement in Principle, the FCR and the Asbestos Claimants' Committee are contractually obligated to support the Parent's Plan and to oppose confirmation of the Debtors' Plan.

As described in the Debtors' Disclosure Statement, the Debtors' Plan proposes to satisfy Asbestos Claims by establishing a trust to which unsecured asbestos personal injury claims and demands will be channeled pursuant to section 524(g) of the Bankruptcy Code. The Debtors propose to fund the trust with (1) cash in the amount estimated by the Bankruptcy Court for the Derivative Asbestos Claims and direct Asbestos Personal Injury Claims, together with post-petition interest; (2) cash in the amount the Bankruptcy Court determines is necessary for administration expenses of the trust; and (3) 100 percent of the equity interests in Reorganized Covington. The Parent believes that the Debtors' Plan is patently unconfirmable because it cannot be confirmed without the approval of the Asbestos Representatives who are contractually obligated to reject it. The Debtors cannot obtain approval for a Section 524(g) injunction over the objections of the FCR and the Asbestos Claimants' Committee.

Furthermore, the Asset Purchase Agreement that is the centerpiece of the Debtors' Plan requires approval of a Section 524(g) injunction and the Debtors have failed to amend the Asset Purchase Agreement as instructed by the Bankruptcy Court. At the hearing on the Sterlite 9019 Motion, Sterlite's counsel orally represented that Sterlite might be willing to close without a Section 524(g) injunction. Specifically, Mr. Roll stated: "we are prepared to accept, as a condition, either the creation of a 524(g) Trust or the entry of a Final Order that disposes of all of the asbestos claims". March 13, 2009, Hrg. Tr. 147:23-148:1. The Bankruptcy Court subsequently entered the Order Pursuant to §§ 363, 105 and Fed. R. Bankr. P. 9019, Approving Settlement and Release and Revised Bid Protections Contained in the New Purchase and Sale Agreement Between ASARCO LLC and Certain of its Subsidiaries, and Sterlite (USA), Inc., and for Related Relief (the "Sterlite 9019 Order"), pursuant to which it ordered that "ASARCO and Sterlite shall, within 10 (ten) days of the date hereof, file amendments to the Debtors' plan of reorganization and disclosure statement describing the proposed treatment of asbestos creditors in light of statements made on the record of the Hearing and the Status Conference, together with any other necessary amendments." Sterlite 9019 Order (Docket No. 10935) at p. 8, ¶ 10.

Although the Debtors have filed an amended plan describing an alternative treatment of asbestos claims, the Debtors have not filed an amended Asset Purchase Agreement and Sterlite has not otherwise committed to close if a plan is confirmed that does not result in a section 524(g) injunction. Therefore, Sterlite has preserved the ability to go along through the confirmation of the Debtors' Plan only to refuse to close the New APA when the Debtors cannot deliver the section 524(g) injunction. Since the Asbestos Claimants' Committee and the FCR are contractually prohibited from supporting the Debtors' Plan, the Debtors will not be able to deliver a section 524(g) injunction, and thus Sterlite will be able to renege on its purchase obligations once again, to the great detriment of the Debtors' estates and creditors.

In addition, shortly after learning of the Agreement in Principle, the Debtors terminated a debtor-in-possession term loan credit facility which provided for the payment of the Asbestos Subsidiary Debtors' professionals. As a result, the Asbestos Personal Injury Claimants are unable to pay professionals and may be denied adequate representation. At the request of the Bankruptcy Court the facility has been extended through May 15, 2009. However, under these circumstances, the Asbestos Subsidiary Committee, which represents one of the largest stakeholders in these Reorganization Cases and the FCR, assert that they will not be able to fulfill their fiduciary duties to the Asbestos Personal Injury Claimants resulting from the Debtors' strategic maneuvering.

## 2.5 Labor Relations.

In January 2007, ASARCO and the labor unions representing its bargaining unit employees (principally the USW) negotiated a new collective bargaining agreement (the "New CBA"). The New CBA includes a "work assignment flexibility provision" which, the Debtors and USW assert, allows ASARCO to assign a certain percentage of employees across departments and share maintenance crews across plants. The New CBA includes phased-in wage increases for ASARCO's hourly workers, and provides for one-time signing bonuses and other bonuses tied to copper prices. The New CBA contains successorship language and, pursuant to ASARCO's settlement with the Unions, a separate "special successorship clause" was also agreed to whereby ASARCO agreed not to consummate any plan of reorganization or sell or transfer any operating plant or significant part thereof, or engage in any other change-of-control transaction unless the prospective buyer will have (1) recognized the Unions as the bargaining representatives for ASARCO workers; and (2) made an agreement with the Unions establishing the terms of employment to be effective as of the effective date of such plan of reorganization, sale or other change of control. In connection with this provision, the Unions are obligated to negotiate in good faith with any prospective buyer and to offer reasonable terms and conditions



and terms and conditions that are substantially the same as those offered to any other prospective buyer, provided, however, that the Unions may offer non-identical terms and conditions if those non-identical terms reflect differences in the natures of the prospective buyers. The Unions' commitment to offer fair and reasonable and substantially similar terms is expressly conditioned upon the prospective buyer bargaining in good faith and providing relevant information reasonably requested. The Bankruptcy Court has the power to terminate the special successorship provision entirely if, upon motion of the ASARCO or the ASARCO Committee, the Bankruptcy Court finds that the Unions have breached such obligation or if the Bankruptcy Court finds, in light of exigent circumstances, that termination of the application of the special successorship clause is necessary to the success of the chapter 11 process. Subsequently, ASARCO and the Unions entered into the Second Stipulation and Order Regarding Modification to Collective Bargaining Agreement which states that: (1) as long as the Parent does not exercise control of ASARCO during the Reorganization Cases, the Parent is not a party or signatory to the New CBA and is not bound by any of the New CBA's terms; (2) the special successorship clause applies to a plan of reorganization where the Parent retains a majority of equity or controlling equity in the reorganized debtors (a "Parent Retained Equity Plan"), and if the Bankruptcy Court determines that (A) the USW has failed to satisfy its obligations under the special successorship clause or (B) in light of exigent circumstances it is necessary to a successful chapter 11 process, the Bankruptcy Court may order that the special successorship clause does not apply; and (3) the Bankruptcy Court retains jurisdiction to determine at a confirmation hearing on any Parent Retained Equity Plan whether any provision of the New CBA would violate the Parent's rights under section 1129(a) or (b) of the Bankruptcy Code and, if the Bankruptcy Court so finds, the Bankruptcy Court has the authority to terminate the New CBA.

The Bankruptcy Court approved the New CBA and the Second Stipulation on March 15, 2007 over the Parent's objection. The following day, ASARCO, the USW and the Parent entered into another Stipulation and Order, pursuant to which the Parent agreed not to seek a stay of implementation of the Order approving the New CBA, while ASARCO and the USW agreed not to argue that the failure to obtain a stay mooted any appeal thereof. On March 28, 2007, ASARCO and the USW gave notice of a modification to Article 11, Section B(2) of the New CBA. The modification is reflected in a letter agreement dated March 20, 2007, between ASARCO and the USW. Article 11, Section B(2) originally provided that, except during maintenance and repair outages and temporary production outages or shortfalls, ASARCO would not replace product that could have been produced at an ASARCO facility with product from other than Canadian or U.S. facilities that provide substantially equivalent wages and benefits, unless the ASARCO facility is operating at full capacity. The amendment deletes the references to Canada and the U.S., so that, under the specified circumstances, ASARCO may purchase product from any facility regardless of location, so long as the replacement facility provides comparable employment terms to its workers.

The Parent filed a notice of appeal from the order, thereby initiating Civil Action No. 07-133 in the District Court. On June 11, 2007, the USW and ASARCO entered into another Stipulation and Order, which was filed in the pending appellate case and modified the New CBA and the Second Stipulation. This Stipulation and Order provided that the Parent is not a signatory of, a party to, or bound by any of the terms of the New CBA, regardless of its status as direct or indirect owner of the equity in ASARCO, except as provided in the special successorship clause. By order entered on October 14, 2008, the District Court affirmed the Bankruptcy Court's order. The Parent filed a notice of appeal from the District Court's order, thereby initiating Case No. 08-41265 in the Court of Appeals for the Fifth Circuit. The Parent filed an unopposed motion to dismiss this appeal without prejudice to its refiling within 180 days, which was granted by order entered on January 22, 2009. In addition, the Parent alleges that certain of the provisions of the New CBA are illegal under the labor laws, and these provisions are the subject of unfair labor practice charges currently pending before the National Labor Relations Board (the "NLRB").

The Parent and the USW have, at various dates in early 2008, exchanged proposals for a collective bargaining agreement and met. The Parent offered to accept and assume all terms of the New CBA with what it considers some limited non-economic modifications and what the USW informs the Parent that it regards as significant non-economic modifications. This proposal was not accepted by the USW. The bargaining between the USW and the Parent is currently the subject of unfair labor practice charges that have been filed against the USW and are pending before the NLRB, alleging, among other things, that the USW bargained in bad faith by insisting as a condition of agreement that the Parent agree to illegal and permissive subjects of bargaining and thus engaged in bad faith bargaining within the meaning of the labor laws. The USW informs the Parent that it vigorously disagrees with the Parent's allegations. Neither the Parent nor the USW has requested a bargaining session with each other since the Plan Sponsor Selection Meeting in Dallas on May 22 and 23, 2008.

The Parent confirms that it remains willing to attempt to negotiate, in good faith, an acceptable collective bargaining agreement with the USW and other Unions, but may also pursue its legal remedies including before the Bankruptcy Court as part of the Confirmation Hearing to address the special successorship provision discussed above.

## 2.6 Sterlite Purchase and Sale Agreements.

In May 2008, Sterlite and ASARCO entered into a purchase and sale agreement (the “Original Sterlite PSA”) under which Sterlite agreed to purchase substantially all of ASARCO’s assets for \$2.6 billion, as well as to assume certain liabilities worth approximately \$400 million. On October 13, 2008, Sterlite informed ASARCO that, as a result of the decline in copper prices and general economic downturn, it would not close under the Original Sterlite PSA without a material price reduction.

The Original Sterlite PSA did not contain any copper price or financing contingencies excusing Sterlite’s performance (as acknowledged by Mr. C.V. Krishnan, President of Sterlite USA and Managing Director of Sterlite India, in his testimony on April 14, 2009). Mr. Krishnan also testified that at the time Sterlite asked for a renegotiation of the Original Sterlite PSA in October 2008, Sterlite had cash and facilities to close under the original terms and original purchase price. See Testimony of C.V. Krishnan at the April 14, 2009 Hearing on the Sterlite 9019 Motion [Docket No. 10937].

ASARCO’s claims against Sterlite USA, Sterlite India, Vedanta, and other associated entities and individuals arising from Sterlite’s refusal to close the Original Sterlite PSA may include, among others, breach of contract, breach of fiduciary duty, aiding and abetting, tortious interference, promissory estoppel, and third party beneficiary claims. The Debtors agreed to release these and any other claims that could be asserted in connection with Sterlite’s failure to close under the Original Sterlite PSA without any analysis and determination of the value and collectability of these claims. Further, the Debtors have not conducted the most simplistic fair market valuation of their claim against Sterlite, nor made an attempt to auction or otherwise dispose of the claim against Sterlite to test whether its value to the estate exceeds the amount allocated from Sterlite’s purchase price for the Debtors’ assets attributable to the release by the Debtors.

The Parent believes that the claims being released could be worth as much as \$3 billion taking into account the purchase price under the Original Sterlite PSA and the value of the liabilities assumed under that agreement. The Debtors assert that the value of the released claims could be approximately \$400 million but arrive at this valuation by subtracting the estimated current enterprise value for ASARCO (\$900 million) from the estimated present value of the aggregate consideration provided under the New Sterlite PSA (including the Plan Sponsor Promissory Note) (\$1.3 billion). See Proffer of George M. Mack in Support of Sterlite 9019 Motion, p. 12 [Docket No. 10801]; see also Proffer of Jay L. Westbrook in Support of the Sterlite 9019 Motion, pp. 2-3 [Docket No. 10806].

The Debtors have alleged that, because Sterlite has no known assets in the United States, there can be no assurance that ASARCO will be able to collect all or any portion of any judgment it could obtain. The Debtors have asserted that, as a result of this perceived difficulty of collecting, the value realized on account of the claims against Sterlite in a liquidation scenario would be highly speculative and would most likely be substantially lower than the amounts attributable to the release of these claims under the New Sterlite PSA.

The Parent believes that the Debtors have not adequately assessed or described the breadth and strength of their potential claims against Sterlite and its affiliates and the potential ease of collecting on a judgment against Sterlite and/or its affiliates. There is no indication the Debtors ever considered any claims other than breach of contract claims or any potential defendants other than Sterlite USA and Sterlite India. In fact, evidence at the hearing on the Sterlite 9019 Motion suggested that the claims contained in a draft complaint were limited to breach of contract claims asserted against Sterlite USA and Sterlite India. See Testimony of Malcolm Lovett at the April 13, 2009 Hearing on the Sterlite 9019 Motion [Docket No. 10907]. Further, the Debtors have not adequately assessed the impact a significant judgment might have on Sterlite’s and its affiliated entities’ and individuals’ ability to do business anywhere in the world. For instance, the evidence at the hearing on the Sterlite 9019 Motion showed that a substantial final U.S. civil money judgment against Sterlite or related entities could have a significant adverse impact upon their ability to be an international-class multinational enterprise with operations and customer bases on a worldwide scale, thereby increasing Sterlite’s incentive to pay the judgment and ASARCO’s ability to collect the judgment. For a more complete discussion of the impact a significant judgment will have, see the Proffer of Joseph J. Norton in Support of Objection [Docket No. 10767]. Further, in the testimony offered at the hearing on the Sterlite 9019 Motion, Mr. Krishnan stated that depending on the

circumstances, it was possible that Sterlite would voluntarily pay a judgment rendered against it. See Testimony of C.V. Krishnan at the April 14, 2009 Hearing on the Sterlite 9019 Motion [Docket No. 10937].

If the creditors vote to reject the Debtor's Plan, any proceeds of these claims against Sterlite that the Parent has estimated to be as large as \$3 billion could be available for use as working capital and therefore available to satisfy claims that are reinstated.

### SECTION 3 SUMMARY OF THE PROPOSED PLAN

#### 3.1 General.

The following is a summary of certain key provisions of the Parent's Plan. Before completing the Ballot, holders of Claims and Interests are referred to, and encouraged to review, the relevant provisions of the Parent's Plan, Parent's Plan Documents, and Bankruptcy Code carefully since their rights could be affected. They also are encouraged to review the Parent's Plan and this Disclosure Statement with their counsel or other advisors. Note that other provisions of the Parent's Plan not summarized in this Section 3 may be summarized elsewhere in this Disclosure Statement.

#### 3.2 Classification.

(a) Generally. Pursuant to section 1122 of the Bankruptcy Code, Claims and Interests, other than Administrative Claims and Priority Tax Claims, will be divided into the Classes set forth in Article 3.2 of the Parent's 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 is within the description of that different Class.

(b) Classes. The following constitute the Classes of Claims and Interests addressed by the Parent's Plan. All Classes of Claims will be deemed divided into Subclasses (and sub-Subclasses, as applicable) of Claims against each of the Debtors.

- (1) Class 1 – Priority Claims. Class 1 consists of all Priority Claims against each of the Debtors.
- (2) Class 2 – Secured Claims. Class 2 consists of all Secured Claims against each of the Debtors.
- (3) Class 3 – Bondholder Claims. Class 3 consists of all Bondholder Claims against each of the Debtors.
- (4) Class 4 – Asbestos Personal Injury Claims. Class 4 consists of all Asbestos Personal Injury Claims against each of the Debtors.
- (5) Class 5 – General Unsecured Claims. Class 5 consists of all General Unsecured Claims against each of the Debtors.
- (6) Class 6 – Environmental Unsecured Claims. Class 6 consists of all Environmental Unsecured Claims against each of the Debtors.
- (7) Class 7 – Environmental Trust Claims. Class 7 consists of all Environmental Trust Claims against each of the Debtors.
- (8) Class 8 – Environmental Reinstated Claims. Class 8 consists of all Environmental Reinstated Claims against each of the Debtors.
- (9) Class 9 – Late-Filed Claims. Class 9 consists of all Late-Filed Claims against each of the Debtors.

(10) Class 10 – Subordinated Claims. Class 10 consists of all Subordinated Claims against each of the Debtors.

(11) Class 11 – Interests in ASARCO. Class 11 consists of all Interests in ASARCO.

### 3.3 Treatment of Unclassified Claims and Demands.

(a) Administrative Claims.

Article 2.1 of the Parent's Plan provides that each holder of an Allowed Administrative Claim (except any holder that agrees to lesser or otherwise different treatment) will be Paid in Full, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date on which such Administrative Claim becomes an Allowed Claim; provided, however, that (a) Allowed Administrative Claims representing (1) post-petition liabilities incurred in the ordinary course of business by any 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 by Reorganized ASARCO 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 a Final Order of the Bankruptcy Court. Chase will 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 Settled Asbestos Insurance Companies will each have an Allowed Administrative Claim for the Pre-524(g) Indemnity, in accordance with the terms and conditions of the Asbestos Insurance Settlement Agreement.

Any Administrative Claims of the United States or any individual state under civil Environmental Laws relating to the Designated Properties will be addressed through the Environmental Custodial Trusts and/or Environmental Liquidation Trust, as applicable, as provided in Article VII of the Parent's Plan.

(b) Priority Tax Claims.

Article 2.2 of the Parent's Plan provides that each holder of an Allowed Priority Tax Claim (except any holder that agrees to lesser or otherwise different treatment), at the election of the Parent, will (1) be Paid in Full, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date upon which such Priority Tax Claim becomes an Allowed Claim, or (2) receive treatment in any other manner such that its Allowed Priority Tax Claim will not be impaired pursuant to section 1124 of the Bankruptcy Code, including, but not limited to, payment in accordance with the provisions of section 1129(a)(9)(C) of the Bankruptcy Code.

(c) Demands.

Article 2.3 of the Parent's Plan provides that demands will be accorded the Section 524(g) Treatment provided to Class 4 Asbestos Personal Injury Claims, and will be determined, processed, liquidated and paid pursuant to the terms and conditions of the Section 524(g) Trust Distribution Procedures and the Section 524(g) Trust Agreement.

The FCR is entitled to make an election regarding whether to accept or reject the Section 524(g) Treatment, provided, however, that, under the Asbestos/AMC/Parent Agreement in Principle, the FCR has agreed to support the Parent's Plan including the Section 524(g) Treatment.

### 3.4 Treatment of Claims and Interests.

Article IV of the Parent's Plan sets forth the treatment to be provided each of the Classes of Claims and Interests under the Parent's Plan. The following is a summary of the treatment being provided under the Parent's Plan to each Class:

(a) Class 1 – Priority Claims.

(1) Voting Rights.

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

(2) Treatment Under the Parent's Plan.

Each holder of an Allowed Priority Claim (except any holder that agrees to lesser or otherwise different treatment) will, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, be Paid in Full, in Cash, on the later of the Effective Date or the date on which such Priority Claim becomes an Allowed Claim.

(b) Class 2 – Secured Claims.

(1) Voting Rights.

Each Secured Claim will 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 7 to the Parent's Plan lists the Class 2 Secured Claims (as such list may be amended, supplemented, or modified up to and including the Confirmation Date).

The Parent will make its election prior to the Confirmation Hearing. The Parent will solicit the votes of each sub-Class of Secured Claims. If the Parent elects to Reinstate a particular Secured Claim, that sub-Class will be unimpaired, and that sub-Class's vote will not be counted. If the Parent elects the Cash payment option as to a particular Secured Claim, that sub-Class will be deemed impaired, and that sub-Class's vote will be counted.

(2) Treatment Under the Parent's Plan.

Each holder of an Allowed Secured Claim, at the election of the Parent, in full satisfaction, settlement, release, extinguishment and discharge of such Claim, will (1) be paid, in Cash, the full value of the Collateral securing such Allowed Secured Claim on the later of the Effective Date or the date on which such Secured Claim becomes due in the ordinary course, (2) be Reinstated, (3) receive from Reorganized ASARCO all Collateral securing such Allowed Secured Claim, or (4) receive such other treatment as may be agreed upon between the Parent and the holder of such Allowed Secured Claim.

Except as otherwise provided in the Parent's Plan, any Asbestos Personal Injury Claimant with a Lien against any property of the Debtors, other than proceeds of an Asbestos Insurance Policy, will retain the Lien securing such Claim, subject to the Parent's election in Article 4.2(b) of the Parent's Plan. Secured Asbestos Personal Injury Claims which are secured by Liens against proceeds of an Asbestos Insurance Policy will be included in the treatment accorded Class 4 Asbestos Personal Injury Claims, as set forth in Article 4.2(d) of the Parent's Plan, and will be determined, processed, liquidated, and paid pursuant to the terms and conditions of the Asbestos TDP and the Asbestos Trust Agreement; provided, however, that the Asbestos Trust may assert any rights (including, but not limited to, avoidance rights and rights of setoff and recoupment), defenses (including, but not limited to, affirmative defenses), and objections that the Debtors have against or with respect to such Claims, which rights, defenses, and objections are transferred to the Asbestos Trust pursuant to the Parent's Plan.

(c) Class 3 – Bondholder Claims.

(1) Voting Rights.

This Class is impaired. Holders of Allowed Bondholder Claims in Class 3 are entitled to vote to accept or reject the Parent's Plan.

(2) Treatment Under the Parent's Plan.

Each holder of an Allowed Bondholder Claim (except any holder that agrees to lesser or otherwise different treatment) will, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date on which such Bondholder Claim becomes an Allowed Claim, receive Cash in an amount equal to 75% of such Allowed Bondholder Claim. The Parent reserves the right to Reinstate any sub-Class of Bondholder Claims with respect to a particular Bond Issuance.

(d) Class 4 – Asbestos Personal Injury Claims.

(1) Voting Rights.

This Class is impaired. Holders of Allowed Asbestos Personal Injury Claims in Class 4 are entitled to vote to accept or reject the Parent's Plan.

(2) Treatment Under the Parent's Plan.

Asbestos Personal Injury Claims and Demands against any of the Debtors will together be allowed in the aggregate amount of one billion dollars (\$1.0 billion). On the Effective Date, the Section 524(g) Trust will be established and funded with the Section 524(g) Trust Assets, and liability of the Debtors for all Asbestos Personal Injury Claims and Demands will be assumed by, and channeled to, the Section 524(g) Trust without further act or deed, and satisfied as set forth in the Parent's Plan. The Section 524(g) Trust is described in Article VI of the Parent's Plan. All Asbestos Personal Injury Claims and Demands will be processed, liquidated and paid pursuant to the terms and provisions of the Section 524(g) Trust Distribution Procedures and the Section 524(g) Trust Agreement. The sole recourse of the holder of an Asbestos Personal Injury Claim or Demand will be to the Section 524(g) Trust and the Section 524(g) Trust Distribution Procedures, and such holder will have no rights whatsoever at any time to assert such holder's Claim or Demand against any Debtor, Reorganized ASARCO, or any ASARCO Protected Party. Without limiting the foregoing, on the Effective Date, all Persons will be permanently and forever stayed, restrained and enjoined from taking any enjoined actions against any ASARCO Protected Party (or against the property or interest in property of the Debtors and their Estates or of any ASARCO Protected Party, or against any Designated Property) for the purpose of, directly or indirectly, collecting, recovering, or receiving payment of, on or with respect to any Asbestos Personal Injury Claim or Demand.

(e) Class 5 – General Unsecured Claims.

(1) Voting Rights.

This Class is impaired. Holders of Allowed General Unsecured Claims in Class 5 are entitled to vote to accept or reject the Parent's Plan.

(2) Treatment Under the Parent's Plan.

Each holder of an Allowed General Unsecured Claim (except any holder that agrees to lesser or otherwise different treatment) will, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date on which such General Unsecured Claim becomes an Allowed Claim, receive Cash in an amount equal to 75% of such Allowed General Unsecured Claim.

(f) Class 6 – Environmental Unsecured Claims.

(1) Voting Rights.

This Class is impaired. Holders of Environmental Unsecured Claims in Class 6 are entitled to vote to accept or reject the Parent's Plan.

(2) Treatment Under the Parent's Plan.

Each holder of an Allowed Environmental Unsecured Claim (except any holder that agrees to lesser or otherwise different treatment) will, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date on which such Environmental Unsecured Claim becomes an Allowed Claim, receive Cash in an amount equal to 75% of such Allowed General Unsecured Claim.

(g) Class 7 – Environmental Trust Claims.

(1) Voting Rights.

This Class is unimpaired. Class 7, and holders of Environmental Trust Claims in Class 7, are conclusively presumed to have accepted the Parent's Plan and, accordingly, are not entitled to vote on the Parent's Plan; provided, however, that each federal and state agency holding an Allowed Environmental Trust Claim with respect to a Designated Property will be entitled to elect to have such Designated Property transferred to an Environmental Custodial Trust.

(2) Treatment Under the Parent's Plan.

On the Effective Date, each Environmental Trust Claim, in full satisfaction, settlement, release, extinguishment and discharge of such Environmental Trust Claim, will be Reinstated, assumed by the Environmental Liquidation Trust, and administered in accordance with the Environmental Liquidation Trust Agreement; provided, however, that at the unanimous election (to be effected through an election on the applicable Ballot) of each federal and state agency holding an Allowed Environmental Trust Claim with respect to an applicable Designated Property, such Designated Property will be transferred to, and all environmental liabilities associated with such Designated Property will be assumed by, the applicable Environmental Custodial Trust in accordance with the applicable Environmental Custodial Trust Agreement.

In unanimously electing a Designated Property to be transferred to an Environmental Custodial Trust (each property so transferred, a "Designated Elected Property"), all federal and state agencies holding an Allowed Environmental Trust Claim with respect to such Designated Elected Property will agree that all Environmental Trust Claims with respect to such Designated Elected Property will be assumed by the applicable Environmental Custodial Trust and such federal and state agencies will have no further claims against the ASARCO Protected Parties in connection with such Designated Elected Property.

With respect to each Designated Property transferred to the Environmental Liquidation Trust, the amounts of Environmental Liquidation Trust Administration Funding and Environmental Liquidation Trust Funding listed in Exhibit 16-A to the Parent's Plan, or such other lesser amounts as are necessary to cleanup such Designated Properties to regulatory closure, will be transferred to the Environmental Liquidation Trust on account of each such Designated Property.

With respect to each Designated Property transferred to an Environmental Custodial Trust, the amounts of Environmental Custodial Trust Administration Funding and Environmental Custodial Trust Funding listed in Exhibit 16-B to the Parent's Plan will be transferred to the applicable Environmental Custodial Trust on account of each such Designated Elected Property.

(h) Class 8 – Environmental Reinstated Claims.

(1) Voting Rights.

This Class is unimpaired. Class 8, and holders of Environmental Reinstated Claims in Class 8, are conclusively presumed to have accepted the Parent's Plan and, accordingly, are not entitled to vote on the Parent's Plan.

(2) Treatment Under the Parent's Plan.

On the Effective Date, Environmental Reinstated Claims will be Reinstated and, from and after the Effective Date, Reorganized ASARCO will assume, pay, perform and discharge when due all of its Assumed Environmental Liabilities.

(i) Class 9 – Late-Filed Claims.

(1) Voting Rights.

This Class is impaired. Class 9 is deemed to have rejected the Parent's Plan and, accordingly, is not entitled to vote on the Parent's Plan.

(2) Treatment Under the Parent's Plan.

The holders of Late-Filed Claims will not receive or retain any property under the Parent's Plan on account of such Claims.

(j) Class 10 – Subordinated Claims.

(1) Voting Rights.

This Class is impaired. Class 10 is deemed to have rejected the Parent's Plan and, accordingly, is not entitled to vote on the Parent's Plan.

(2) Treatment Under the Parent's Plan.

The holders of Subordinated Claims will not receive or retain any property under the Parent's Plan on account of such Claims.

(k) Class 11 – Interests in ASARCO

(1) Voting Rights.

This Class is impaired. Class 11 is deemed to have rejected the Parent's Plan and, accordingly, is not entitled to vote on the Parent's Plan.

(2) Treatment Under the Parent's Plan.

The Interests in ASARCO will be deemed cancelled, and the holder of such Interests will not receive or retain any property under the Parent's Plan on account of such Interests.

In exchange for the Parent Contribution, ASARCO USA Incorporated or its designee will receive the New Equity Interests on the Effective Date.

3.5 Cramdown

Article 5.1 of the Parent's Plan provides that, if all applicable requirements for Confirmation of the Parent's Plan are met as set forth in section 1129(a)(1) through (13) of the Bankruptcy Code *except* subsection (8) thereof,



the Parent's Plan will be treated as a request by the Parent for Confirmation of the Parent's Plan in accordance with the "cramdown" provisions of section 1129(b) of the Bankruptcy Code, notwithstanding the failure to satisfy the requirements of section 1129(a)(8), on the basis that the Parent's 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, the Parent's Plan.

3.6 Conditions to Effectiveness.

Article 9.1 of the Parent's Plan provides that, notwithstanding any other provision of the Parent's Plan or any order entered in connection with the Reorganization Cases, the Effective Date of the Parent's Plan will not occur until and unless each of the following conditions to effectiveness has been satisfied or waived pursuant to Article 9.2 of the Parent's Plan:

(a) Disclosure Statement.

The Bankruptcy Court has approved the Disclosure Statement.

(b) Confirmation Findings and Conclusions.

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

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

(2) The Section 524(g) Treatment has been approved by creditors in Class 4 under the Parent's Plan in the requisite numbers and amounts required by sections 524(g), 1126, and 1129 of the Bankruptcy Code and by the FCR;

(3) On the Effective Date, the Section 524(g) Trust will assume the liabilities of the Debtors with respect to the Asbestos Personal Injury Claims and Demands and will receive all transfers and assignments set forth in the Parent's Plan;

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

(5) The Section 524(g) Trust is to be funded in part by securities of Reorganized ASARCO and by the obligation of Reorganized ASARCO to make future payments;

(6) The Section 524(g) Trust will be entitled to own, if specified contingencies occur, a majority of the voting shares of Reorganized ASARCO;

(7) The Section 524(g) Trust will use its assets and income to pay the Asbestos Personal Injury Claims and Demands;

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

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

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

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

(12) The Section 524(g) Trust will operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of Asbestos Personal Injury Claims and Demands, or other comparable mechanisms, that provide reasonable assurance that the Section 524(g) Trust will value, and be in a financial position to pay, all Asbestos Personal Injury Claims and Demands in substantially the same manner;

(13) The FCR was appointed by the Bankruptcy Court as part of the proceedings leading to the issuance of the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction for the purpose of, among other things, protecting the rights of persons that might subsequently assert Demands of the kind that are addressed in the Permanent Channeling Injunction and/or the Asbestos Insurance Company Injunction and that are to be assumed and paid by the Section 524(g) Trust in accordance with the Section 524(g) Trust Documents;

(14) In light of the respective benefits provided, or to be provided, to the Section 524(g) Trust by, or on behalf of, each ASARCO Protected Party, the Permanent Channeling Injunction is fair and equitable with respect to the persons that might subsequently assert Demands against any ASARCO Protected Party;

(15) In light of the respective benefits provided, or to be provided, to the Section 524(g) Trust by a Settling Asbestos Insurance Company in order to receive the benefits of the Asbestos Insurance Company Injunction, the Asbestos Insurance Company Injunction is fair and equitable with respect to the persons who might subsequently assert Demands against any Settling Asbestos Insurance Company;

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

(17) The Permanent Channeling Injunction and the Asbestos Insurance Company Injunction are integral parts of the Parent's Plan and may not be vacated, amended or modified after Confirmation except to the extent expressly provided in Article 11.3(a)(2) and 11.3(b)(2) of the Parent's Plan;

(18) The Parent's Plan complies with all applicable sections of the Bankruptcy Code, including, to the extent the Section 524(g) Treatment goes into effect, section 524(g) of the Bankruptcy Code;

(19) The Parent's Plan Documents which relate to the Section 524(g) Treatment are approved in all respects, and all parties thereto are authorized and directed to perform all their obligations thereunder; and

(20) Approval of all settlements and compromises embodied in the Section 524(g) Treatment is appropriate under Bankruptcy Rule 9019 and applicable law governing approval of such settlements and compromises and will be ordered as part of the Confirmation Order.

(c) Confirmation Order.

(1) The Confirmation Date will have occurred no later than July 31, 2009, except as may be otherwise agreed by the Parent and the Asbestos Representatives.

(2) The Confirmation Order entered or affirmed by the District Court is acceptable to the Parent.

(3) The Effective Date will have occurred no later than August 31, 2009, except as may be otherwise agreed by the Parent and the Asbestos Representatives.

(d) No Stay.

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

(e) Parent's Plan Documents.

(1) The Parent's Plan Documents necessary or appropriate to implement the Parent's Plan, other than those which relate to the Section 524(g) Treatment, have been executed, in a form acceptable to the Parent, delivered and, where applicable, filed with the appropriate governmental or supervisory authorities.

(2) The Bankruptcy Court has approved the Parent's Plan Documents, other than those which relate to the Section 524(g) Treatment, in all respects and authorized and directed all parties thereto to perform all their obligations thereunder.

(f) Funding and New Equity Interests.

The Parent has delivered the Parent Contribution to the Parent's Plan Administrator except as may be otherwise agreed by the Parent and the Asbestos Representatives, ASARCO has transferred the Distributable Cash to the Parent's Plan Administrator, all interests in the Debtors have been canceled and the New Equity Interests have been delivered to ASARCO USA Incorporated or its designee; it being understood that the failure of the Parent to provide the Parent Contribution will not relieve the Parent of its funding obligations under this Parent's Plan.

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

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

(h) Approval of Parent's Plan Settlements.

The Bankruptcy Court has approved all settlements and compromises embodied in the Parent's Plan, and has found that such settlements and compromises are appropriate under Bankruptcy Rule 9019 and applicable law governing such approval and such settlements and compromises will be approved as part of the Confirmation Order.

3.7 Waiver of Conditions to Effectiveness.

Article 9.2 of the Parent's Plan provides that the Parent, in its sole discretion, may waive any condition to effectiveness in Article 9.1 of the Parent's 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 U.S. Trustee, the Debtors, the Committees, the FCR, and the DOJ; provided that the Parent may not waive any condition to effectiveness in Articles 9.1(c)(1), 9.1(c)(3), or 9.1(f) of the Parent's Plan without the consent of the Asbestos Representatives.

3.8 Notice of Effective Date.

Article 9.3 of the Parent's Plan provides that Reorganized ASARCO will give notice of the Effective Date within five (5) Business Days after its occurrence.

3.9 Non-Occurrence of Effective Date.

Article 9.4 of the Parent's Plan provides that, in the event that the Effective Date does not occur, all parties will be returned to the position they would have held had the Confirmation Order not been entered, and nothing in the Parent's Plan, Disclosure Statement, or any Parent's Plan Document, or any pleading or statement in court will 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.

3.10 How the Parent's Plan Will Be Implemented.

(a) Sources of Cash and Other Consideration for Distributions.

Article 10.1 of the Parent's Plan provides that, on the Effective Date, (i) the Parent Contribution will be delivered to the Parent's Plan Administrator; (ii) Reorganized ASARCO will transfer the Distributable Cash to the Parent's Plan Administrator; (iii) Reorganized ASARCO will deliver the ASARCO Note, the ASARCO Security Agreement and the ASARCO Deed of Trust to the Section 524(g) Trust; and (iv) ASARCO Incorporated or its designee

that holds the equity interests in Reorganized ASARCO will deliver the Parent Pledge Agreement to the Section 524(g) Trust.

On the Effective Date, the Parent and Reorganized ASARCO shall enter into the Working Capital Facility. Proceeds drawn from the Working Capital Facility, the Tax Refund, as discussed in Article 10.7 of the Parent's Plan, and proceeds of the Litigation Claims, if any, shall be used to fund Reorganized ASARCO's working capital needs.

Claims that will be Reinstated under the Parent's Plan will be paid out of Reorganized ASARCO's operating cash flows unless otherwise provided in the Parent's Plan. For the avoidance of doubt, it is not a condition to the confirmation or effectiveness of the Parent's Plan that any particular Claim or Class has been Allowed by Final Order.

(b) Appointment of Parent's Plan Administrator and Funding of Miscellaneous Parent's Plan Administration Accounts.

(1) Article 10.2(a) of the Parent's Plan provides that, not less than ten days prior to commencement of the Confirmation Hearing, the Parent will designate the Entity that will initially serve as the Parent's Plan Administrator. Upon approval by the Bankruptcy Court in the Confirmation Order, the Parent's Plan Administrator will be appointed. The Parent's Plan Administrator will have and perform all of the duties, responsibilities, rights and obligations set forth in the Parent's Plan Administration Agreement. The Parent's Plan Administrator will serve without bond, may employ or contract with other Persons to assist in the performance of the Parent's Plan Administrator's duties, which will be set forth in the Parent's Plan Administration Agreement, and will procure appropriate directors and officers liability insurance and other insurance coverage appropriate to the business in which Reorganized ASARCO is to be engaged. The Parent's Plan Administrator will 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.

(2) Article 10.2(b) of the Parent's Plan provides that, on the Effective Date (or as soon thereafter as is reasonably practicable), the Parent's Plan Administrator will establish and fund the Parent's Plan Administration Account with sufficient Cash to pay the Parent's Plan Administrator's estimated compensation and expenses, and all other anticipated costs of administration of the Parent's Plan. The Parent's Plan Administrator will also establish and fund Miscellaneous Parent's Plan Administration Accounts, including the Disputed Claims Reserve, the Disputed Secured Claims Escrow Account, and the Undeliverable and Unclaimed Distribution Reserve, and may also establish such general accounts as the Parent's Plan Administrator deems necessary and appropriate.

(3) Article 10.2(c) of the Parent's Plan provides that, on the Effective Date (or as soon thereafter as is reasonably practicable), the Parent's Plan Administrator will (i) fund the Section 524(g) Trust with the Section 524(g) Trust Assets, (ii) either fund the Environmental Liquidation Trust with the Environmental Liquidation Trust Assets or, to the extent unanimously elected by the applicable federal and state agencies holding an Allowed Environmental Trust Claim with respect to a Designated Property, fund the Environmental Custodial Trust(s) with the Environmental Custodial Trust Assets, and (iii) fund the Disputed Claims Reserve as provided for in Article 13.8 of the Parent's Plan.

(4) Article 10.2(d) of the Parent's Plan provides that the Parent's Plan Administrator will allocate the funds in the Parent's Plan Administration Account to subaccounts corresponding to the enumerated functions of the Parent's Plan Administrator. Until the Parent's Plan Administrator has discharged its obligations, the funds in those subaccounts and the Miscellaneous Parent's Plan Administration Accounts may only be used for the purpose designated for that particular account or subaccount.

(5) Article 10.2(e) of the Parent's Plan provides that, to the extent there are any excess funds in the Parent's Plan Administration Account (or any subaccount thereof) or any Miscellaneous Parent's Plan Administration Account, the Parent's Plan Administrator will make a Subsequent Distribution of such funds to Reorganized ASARCO to fund Reorganized ASARCO's working capital needs.

(c) Distribution of Available Parent's Plan Funds.

Article 10.3 of the Parent's Plan provides that, on the Effective Date, the Parent's Plan Administrator will pay the Allowed Claims that are to be paid on the Effective Date.

(d) Release of Litigations.

Article 10.4 of the Parent's Plan provides that on the Effective Date, all causes of action identified in **Exhibit 2** to the Parent's Plan will be deemed, without any notice, the entry of any other order, or any other action by any party to have been released and dismissed or withdrawn with prejudice. All other causes of action or counts thereof of the Debtors and their estates, including, without limitation, those under chapter 5 of the Bankruptcy Code (or similar state or federal law), and the Asbestos Insurance Actions, will continue and be pursued as provided in Article 10.12 of the Parent's Plan but subject to Article 6.4, as applicable.

(e) Prepetition ASARCO Environmental Trust.

(1) Article 10.5(a) of the Parent's Plan provides that the Prepetition ASARCO Environmental Trust will remain in existence, and will be unaffected by the Reorganization Cases or any related settlements. The Parent's Plan Administrator will succeed to ASARCO's administrative role, and will, in its sole discretion, act as Performing Entity (as defined in the Prepetition ASARCO Environmental Trust) from time to time, but will assume no affirmative liabilities or obligations associated with that role. In accordance with the documents governing it, the funds in the Prepetition ASARCO Environmental Trust will continue to be available for, among other things, (i) identified work sites; (ii) interim costs prior to the effectiveness of the Parent's Plan; and (iii) any shortfalls or unanticipated costs or any other use permitted by the terms of the Prepetition ASARCO Environmental Trust (it being understood that the terms of certain environmental settlements were based on the assumption that certain previously identified, additional environmental response actions to be performed by ASARCO, the Parent's Plan Administrator or the United States would be reimbursed from the Prepetition ASARCO Environmental Trust). The Parent will make any remaining required contributions to the Prepetition ASARCO Environmental Trust.

(2) Article 10.5(b) of the Parent's Plan provides that the funds remaining in the Prepetition ASARCO Environmental Trust will be separate from and without prejudice to the distributions to be made to holders of Claims, as described in Article IV of the Parent's Plan.

(f) Operations and Settlements Between the Confirmation Date and the Effective Date.

Article 10.6 of the Parent's Plan provides that, except as set forth in the Parent's Plan with respect to the appointment of the Parent's Plan Administrator, during the period from the Confirmation Date through and until the Effective Date, the Debtors will 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. During the period from the Confirmation Date through and until the Effective Date, the Debtors will not enter into or seek approval of any settlement(s) of any Claim(s) where the amount of such settlement, or the Allowed amount of such Claims, individually or in the aggregate, would be in excess of \$10 million, without prior written approval of the Parent.

(g) Tax Refund.

Article 10.7 of the Parent's Plan provides that, unless the Tax Refund Adversary Proceeding has been determined by Final Order prior to the Effective Date, then on the Effective Date, the Tax Refund will be transferred to Reorganized ASARCO for use as working capital following the Effective Date.

(h) Limited Liability Company Agreement.

Article 10.8 of the Parent's Plan provides that, on or as soon as reasonably practicable after the Effective Date, Reorganized ASARCO will file an amended LLC Agreement (the "Amended LLC Agreement") with the Secretary of State of the State of Delaware. The Amended LLC Agreement will, in compliance with section 1123 of the

Bankruptcy Code, prohibit the issuance of nonvoting equity securities and provide for an appropriate distribution of voting powers among classes of securities.

(i) Management of Reorganized ASARCO.

Article 10.9 of the Parent's Plan provides that, pursuant to section 1129(a)(5) of the Bankruptcy Code, the Parent will disclose, by filing, on or prior to the Confirmation Date, a document disclosing the identity and affiliations of any person proposed to serve on the initial board of directors of Reorganized ASARCO or as an officer of Reorganized ASARCO. To the extent any such person is an insider, the nature of any compensation payable to such person will be disclosed at such time. Reorganized ASARCO will have a five-person board of directors, each of them nominated by the Parent. Each director and officer will serve from and after the Effective Date pursuant to the terms of the amended Limited Liability Company Agreement, and applicable law.

(j) Issuance of New Equity Interests in Reorganized ASARCO.

Article 10.10 of the Parent's Plan provides that, on the Effective Date, in exchange for the Parent Contribution, the New Equity Interests will be issued and delivered to ASARCO USA Incorporated or its designee. Except as otherwise provided in Article X of the Parent's Plan, Reorganized ASARCO will continue its existence after the Effective Date. As further consideration for the New Equity Interests, the Parent and the Parent's Affiliates will waive all Administrative and General Unsecured Claims against the Debtors on the Effective Date.

(k) Revesting.

Article 10.11 of the Parent's Plan provides that, except as otherwise expressly provided in the Parent's Plan, on the Effective Date, all of ASARCO's and its Estate's property and assets will vest in Reorganized ASARCO, free and clear of all Liens, Claims, charges and other encumbrances.

(l) Vesting and Enforcement of Causes of Action.

Article 10.12 of the Parent's Plan provides that any and all claims and causes of action, including, without limitation, the Litigation Claims, that were owned by ASARCO or its Estate as of the Effective Date, other than the Asbestos Insurance Actions, will vest in Reorganized ASARCO on the Effective Date, and Reorganized ASARCO will be the only Entity entitled to pursue such claims or causes of action. The Asbestos Insurance Actions will vest in the Section 524(g) Trustees and may be pursued or compromised as deemed fit by the Section 524(g) Trustees, in their sole discretion, without need for approval of the Bankruptcy Court. The Released Litigation causes of actions or suits identified on **Exhibit 2** to the Parent's Plan will not vest in Reorganized ASARCO on the Effective Date, but rather will be released as settled on the Effective Date.

(m) Further Authorizations.

Article 10.13 of the Parent's Plan provides that Reorganized ASARCO, the Parent's Plan Administrator, or the Parent may seek such orders, judgments, injunctions, and rulings as 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, the Parent's Plan.

(n) Effectuating Documents and Further Transactions.

Article 10.14 of the Parent's Plan provides that the chief executive officer, president, chief financial officer, general counsel, secretary, treasurer, any vice president, or managing member (if applicable) of Reorganized ASARCO will be authorized, to the extent consistent with Reorganized ASARCO'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 the Parent's Plan. The secretary or any assistant secretary of each Debtor and Reorganized ASARCO will be authorized to certify or attest to any of the foregoing actions.

(o) Corporate Action.

Article 10.15 of the Parent's Plan provides that all matters provided for under the Parent's Plan involving the corporate structure of the Debtors or Reorganized ASARCO, or any corporate action to be taken by, or required of the Debtors or Reorganized ASARCO, will be deemed to have occurred and be effective as provided in the Parent's Plan, and will 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.

(p) Execution of Parent's Plan Documents.

Article 10.16 of the Parent's Plan provides that, on the Effective Date, Reorganized ASARCO and other parties thereto will execute and deliver the Parent's Plan Documents, as applicable.

(q) Approval of Section 524(g) Trust Documents.

Article 10.17 of the Parent's Plan provides that, if confirmation of the Parent's Plan will constitute approval pursuant to Bankruptcy Rule 9019 of the Section 524(g) Trust Documents, as evidenced by entry of the Confirmation Order.

(r) Option to Create Work Trusts.

Article 10.18 of the Parent's Plan provides that, the DOJ may at its option elect to establish work trusts for the purpose of receiving distributions made with respect to Allowed Claims that relate to specified environmental sites.

(s) Approval of Mission Mine Settlement Agreement.

Article 10.19 of the Parent's Plan provides that the Confirmation of the Parent's Plan will cause the Mission Mine Settlement Agreement to be binding upon all landowners and allottees who own interests in the lands affected by the Mission Mine Settlement Agreement.

(t) Wind Down of Subsidiary Debtors.

Article 10.20 of the Parent's Plan provides that on the Effective Date, (a) the Subsidiary Debtor Assets will be transferred to Reorganized ASARCO free and clear of any and all Liens, Claims, encumbrances, or interests of any kind in such property of any Person or Entity except as provided in the Parent's Plan, (b) all assets of the Subsidiary Debtors other than the Subsidiary Debtor Assets will be transferred to the Plan Administrator for the benefit of Reorganized ASARCO, free and clear of any and all Liens, Claims, encumbrances, or interests of any kind in such property of any Person or Entity except as provided in the Parent's Plan, and (c) all Interests in the Subsidiary Debtors will be canceled. As soon as practicable after the Effective Date, the Plan Administrator will liquidate all assets of the Subsidiary Debtors other than the Subsidiary Debtor Assets and will transfer the proceeds of such liquidation to Reorganized ASARCO free and clear of any and all Liens, Claims, encumbrances, or interests of any kind in such proceeds of any Person or Entity except as provided in the Parent's Plan.

(u) Deemed Consolidation of Debtors for Plan Purposes Only.

Article 10.21 of the Parent's Plan provides that, subject to the occurrence of the Effective Date, the Debtors will be deemed consolidated under the Parent's Plan, solely for the limited purposes of voting and distribution under the Parent's Plan. Each and every Claim filed or to be filed against any of the Debtors will be deemed filed against the deemed consolidated Debtors and will be deemed one Claim against all Debtors and (a) any obligation of any Debtor and all guarantees thereof executed by one or more of the Debtors will be deemed to be one obligation of all of the consolidated Debtors; (b) any Claims filed or to be filed in connection with any such obligation and such guarantees will be deemed one Claim against the consolidated Debtors; (c) all duplicative Claims (identical in amount and subject matter) filed against one or more of the Debtors will be automatically expunged so that only one Claim survives against the consolidated Debtors; and (d) the consolidated Debtors will be deemed, for purposes of determining the availability of the right of set-off under section 553 of the Bankruptcy Code, to be one entity, so that, subject to other provisions of section 553 of the Bankruptcy Code, the debts due to a particular Debtor may be offset against the Claims against such Debtor or Debtors. Such deemed consolidation, however, will not (other than for purposes related to funding distributions under this

Plan and as set forth above in this section) affect: (i) any guarantees, liens, and security interests that are required to be maintained under this Plan; or (ii) distributions out of any insurance policies or proceeds of such policies.

3.11 Distributions.

(a) Plan Distributions.

Article 13.1 of the Parent's Plan provides that all distributions or payments required or permitted to be made under the Parent's Plan, other than to holders of Asbestos Personal Injury Claims and Demands, holders of General Unsecured Claims and/or Professional Persons, will be made by the Parent's Plan Administrator on the Effective Date and thereafter by the Parent's Plan Administrator at the time or times and in the manner provided herein, unless otherwise ordered by the Bankruptcy Court. Distributions to holders of Asbestos Personal Injury Claims and Demands shall be made by the Section 524(g) Trust in accordance with the Section 524(g) Trust Documents. Distributions to Professional Persons will be made by the Parent's Plan Administrator on the Effective Date and thereafter by the Parent's Plan Administrator pursuant to order of the Bankruptcy Court. Distributions to be made on the Effective Date will be deemed actually made on the Effective Date if made either (a) on the Effective Date or (b) as soon as reasonably practicable thereafter.

(b) Delivery of Distributions.

Article 13.2 of the Parent's Plan provides that, except as otherwise expressly provided in the Parent's Plan, distributions to holders of Allowed Claims will be made at the address of the holder of such Claim as indicated in the claims register maintained by the Claims Agent. Nonetheless, if such holder holds such Claims through a Nominee, distributions with respect to such Claims will be made to such Nominee, and such Nominee will, in turn, make appropriate distributions and book entries to reflect such distributions to such holders.

All distributions on account of Allowed Bondholder Claims will be made to the respective Indenture Trustee for the particular issue of Bonds.

(c) Distribution Record Date.

Article 13.3 of the Parent's Plan provides that Reorganized ASARCO and the Parent's Plan Administrator will 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 will be entitled for all purposes in the Parent's Plan to recognize and make distributions only to those holders of Allowed Claims that are holders of such Claims or participants in the Parent's Plan, 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, will be closed. Reorganized ASARCO and the Parent's Plan Administrator will 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 will be entitled for all purposes in the Parent's Plan 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 will not be made as of the Distribution Record Date but rather will be accomplished in accordance with the respective Indentures and the policies and procedures of DTC.

(d) Unclaimed Property.

Article 13.4 of the Parent's Plan provides that:

(1) 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 will become vested in, and will be transferred and delivered to, the Section 524(g) Trust for use in accordance with the terms of the Section 524(g) Trust Documents.



(2) Distributions by the Parent's Plan Administrator.

(A) 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 will 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 will be made to such holder without interest. The amounts in respect of such undeliverable and/or unclaimed distributions will be returned to the Parent's Plan Administrator until such distributions are claimed. The Parent's Plan Administrator will 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) of the Parent's Plan. Nothing contained in the Parent's Plan will require Reorganized ASARCO or the Parent's Plan Administrator to attempt to locate any holder of an Allowed Claim.

(B) 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") will become vested in, and will be transferred and delivered to, the Parent's Plan Administrator. In such event, such Claimant will 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, will have no further Claim in respect of such distribution, and will not participate in any further distributions under the Parent's Plan with respect to such Claim. The Parent's Plan Administrator will distribute the Forfeited Distributions to Reorganized ASARCO as a Subsequent Distribution.

(e) Compliance with Tax Requirements.

Article 13.5 of the Parent's Plan provides that Reorganized ASARCO, the Parent's Plan Administrator and the Section 524(g) Trust will 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 will 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, will 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.

(f) Setoffs and Recoupments.

Article 13.6 of the Parent's Plan provides that, 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 will 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 any Debtor may have against the holder of such Claim, but neither the failure to do so nor the allowance of any Claim hereunder will 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.

(g) No Distribution Pending Allowance.

Article 13.7 of the Parent's Plan provides that, 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.

(h) Disputed Claims Reserve.

(1) Article 13.8(a) of the Parent's Plan provides that the Parent's Plan Administrator will maintain, in accordance with its powers and responsibilities under the Parent's Plan, a Disputed Claims Reserve.

(2) Article 13.8(b) of the Parent's Plan provides that, 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, will 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.

(3) Article 13.8(c) of the Parent's Plan provides that 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.

(4) Article 13.8(d) of the Parent's Plan provides that in the case of objections to allegedly Secured Claims, any Lien asserted by the holder of such a Claim against assets that revert in or is transferred to Reorganized ASARCO will remain in place, pending resolution of the objection to the allegedly Secured Claim.

(5) Article 13.8(e) of the Parent's Plan provides that the Parent's Plan Administrator (at such time as determined to be practicable by the Parent's Plan Administrator) will distribute from the Disputed Claims Reserve to the holder of any Disputed Claim that has become an Allowed Claim, an amount equal to the Allowed Claim as if such Claim had been an Allowed Claim on the Effective Date. With respect to Claims that are Reinstated, the Parent's Plan Administrator will distribute from the Disputed Claims Reserve to the holder of any Disputed Claim that is allowed by an unstayed order of a court of competent jurisdiction, not later than the tenth Business Day after the end of the calendar month in which such order is entered, an amount equal to such Claim as if such Claim had been an Allowed Claim on the Effective Date.

(6) Article 13.8(f) of the Parent's Plan provides that if a Disputed Claim is disallowed, in whole or in part, the Parent's Plan Administrator will (at such time as determined to be practicable by the Parent's Plan Administrator) distribute as a Subsequent Distribution the Cash reserved in respect of such disallowed Disputed Claim in accordance with the terms and conditions of the Parent's Plan and the Confirmation Order.

(7) Article 13.8(g) of the Parent's Plan provides that 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 shall be the "administrator" of the Disputed Claims Reserve pursuant to Treasury Regulation section 1.468B-9(b)(2). In general, the Disputed Claims Reserved will be treated in the same manner as a "qualified settlement fund" for federal income tax purposes. The Parent's Plan Administrator shall cause all taxes imposed on the Disputed Claims Reserve to be paid using assets of the Disputed Claims Reserve and shall 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.

(i) Surrender of Bondholder Certificates; Lost Certificates.

Article 13.9 of the Parent's Plan provides that, with respect to each Allowed Bondholder Claim, each holder of an instrument evidencing such Allowed Bondholder Claim (a "Certificate") will surrender such Certificate to the Indenture Trustee or the Parent's Plan Administrator, as the case may be, and such Certificate will be cancelled solely with respect to the Debtors and such cancellation will 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 will 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 will be deemed to have forfeited

all rights and Claims in respect of such Certificate and will not participate in any distribution under the Parent's Plan, and all property in respect of such forfeited distribution will 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: (1) 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 will, 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 will be deemed to have had its right to distributions pursuant to the Parent's Plan on account thereof discharged, and will 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 DTC 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 DTC, then the beneficial holder of such an Allowed Bondholder Claim will 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.

(j) Cancellation of Instruments.

Article 13.10 of the Parent's Plan provides that 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 will be deemed cancelled and will represent only the right to participate in the distributions under the Parent's Plan. 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.

3.12 Procedures For Treating Disputed Claims.

(a) Objections to Claims.

Article 14.1 of the Parent's Plan provides that, after the Effective Date, Reorganized ASARCO and the Parent's Plan Administrator will 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 will 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 will 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, will 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 will be filed in the Bankruptcy Court.

(b) Objection Deadline.

Article 14.2 of the Parent's Plan provides that, 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 will be Allowed or disallowed as provided in the Section 524(g) Trust Distribution Procedures) will 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.

(c) Disallowance of Improperly Filed Claims.

Article 14.3 of the Parent's Plan provides that 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 will 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 will not require a motion for allowance.

3.13 Injunctions, Releases and Discharge.

The Parent's Plan provides for entry of various releases and permanent injunctions in favor of the ASARCO Protected Parties. These releases and injunctions are an essential part of the Parent's Plan and, if entered, will limit the rights of holders of Asbestos Personal Injury Claims and Demands and others against these entities.

The Term "ASARCO Protected Parties" refers to:

- the Debtors and their respective predecessors;
- Reorganized ASARCO;
- the ASARCO Protected Non-Debtor Affiliates and their respective predecessors;
- the Parent and its Affiliates and predecessors;
- Grupo México and its Affiliates and predecessors;
- the Trusts;
- the Trustees;
- the Section 524(g) Trust Advisory Committee;
- the FCR;
- the Asbestos Claimants' Committee, including its members in their member capacities;
- the Parent's Plan Administrator;
- the Examiner;
- the ASARCO Committee, including its members in their member capacities; and
- the present and former directors, officers, agents, attorneys, accountants, consultants, financial advisors, investment bankers, professionals, experts, and employees of any of the foregoing, in their respective capacities as such.

(a) Discharge and Release.

Article 11.1 of the Parent's Plan provides that, except as otherwise expressly provided in the Parent's Plan, the rights afforded in the Parent's Plan and the treatment of all Claims, Demands, and Interests will be in exchange for and in complete satisfaction, discharge, and release of all Claims, Demands, and Interests of any nature whatsoever, against any Debtor or its Estate, assets, properties or interests in property. Except as otherwise provided in the Parent's Plan, on the Effective Date, all Claims and Demands against and Interests in the Debtors will be satisfied, discharged, and released in full. The ASARCO Protected Parties will not be responsible for any obligations of the Debtors except those expressly assumed by them in the Parent's Plan, provided, however, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in Articles 11.1 and 11.9 of the Parent's Plan, then the protections in this Article with respect to ASARCO Protected Parties other than Reorganized ASARCO will not go into effect.

(b) Discharge Injunction.

Article 11.2 of the Parent's Plan provides that, except as otherwise expressly provided in the Parent's Plan, the discharge and release set forth in Article 11.1 of the Parent's Plan will also 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 or Demand discharged and released in Article 11.1 of the Parent's Plan and (b) any cause of action, whether known or unknown, based on the same subject matter as any Claim or Demand discharged and released in Article 11.1 of the Parent's Plan. Except as otherwise expressly provided in the Parent's Plan, all Persons and Entities will be precluded and forever barred from asserting against the ASARCO Protected Parties, their successors or assigns, or their assets, properties, or interests in property any other or further Claims or Demands, or any other right to legal or equitable relief regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date, provided, however, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in Articles 11.2 and 11.9 of the Parent's Plan, then the protections in this Article with respect to ASARCO Protected Parties other than Reorganized ASARCO will not go into effect.

(c) The Permanent Channeling Injunction and the Asbestos Insurance Company Injunction.

Article 11.3 of the Parent's Plan provides that in order to supplement the injunctive effect of the Discharge Injunction, and pursuant to the exercise of the legal and equitable jurisdiction and power set forth in section 524(g) of the Bankruptcy Code, the Confirmation Order shall provide for issuance of the following injunctions to take effect as of the Effective Date:

(1) Permanent Channeling Injunction.

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

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

- (iii) *enforcing, levying, attaching (including by prejudgment attachment), collecting, or otherwise recovering, by any manner or means, whether directly or indirectly, any judgment, award, decree, or other order against any of the ASARCO Protected Parties, or against the property or interests in property of any ASARCO Protected Parties, with respect to any Asbestos Personal Injury Claim or Demand;*
- (iv) *creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Lien of any kind against any ASARCO Protected Parties, or the property or interests in property of any ASARCO Protected Parties, with respect to any Asbestos Personal Injury Claim or Demand;*
- (v) *except as otherwise specifically provided in the Parent's Plan, asserting or accomplishing any setoff, right of subrogation, indemnity, contribution, reimbursement, or recoupment of any kind and in any manner, directly or indirectly against any obligation due any ASARCO Protected Parties, or against the property or interests in property of any ASARCO Protected Parties, with respect to any Asbestos Personal Injury Claim or Demand; and*
- (vi) *proceeding or taking any action, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Parent's Plan, the Parent's Plan Documents or the Section 524(g) Trust Documents relating to any Asbestos Personal Injury Claim or Demand*

(B) Reservations. Notwithstanding anything to the contrary above or in the Parent's Plan, neither the Permanent Channeling Injunction nor the Parent's Plan shall enjoin, alter, diminish, or impair:

- (vii) *the rights of Entities to the treatment accorded them under Articles II and IV of the Parent's Plan, as applicable, including the rights of Entities with Asbestos Personal Injury Claims or Demands to assert such Asbestos Personal Injury Claims or Demands in accordance with the Section 524(g) Trust Distribution Procedures;*
- (viii) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment of Section 524(g) Trust Expenses against the Section 524(g) Trust;*
- (ix) *the enforceability of any of the Asbestos Insurance Policies or any Asbestos Insurance Settlement Agreement;*
- (x) *the rights of the Section 524(g) Trustees, if any, with regard to any Asbestos Insurance Company that is not a Settling Asbestos Insurance Company (with the Section 524(g) Trust being, and deemed to be, for all purposes of insurance and indemnity, the successor to the Debtors in respect of all Asbestos Personal Injury Claims and Demands and other recoveries from an Asbestos Insurance Company, in its capacity as such); or*
- (xi) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment against an Asbestos Insurance Company that is not an ASARCO Protected Party unless otherwise enjoined by order of the Bankruptcy Court or the District Court or estopped by a provision of the Parent's Plan.*

(2) Asbestos Insurance Company Injunction.

(A) Terms. In order to preserve and promote the property of the Estate, as well as the settlements contemplated by and provided for in the Parent's Plan, and to supplement where necessary the injunctive effect of the discharge and releases provided for in the Parent's Plan, pursuant to sections 524(g) and 105(a) of the Bankruptcy Code, all Entities which have held or asserted, which hold or assert, or which may in the future hold or assert any Claim, Demand or cause of action (including, without limitation, any Asbestos Personal Injury Claim or Demand or any Claim for or respecting any Section 524(g) Trust Expense) against a Settling Asbestos Insurance Company based upon, relating to, arising out of, attributable to, or in any way connected with any Asbestos Personal

*Injury Claim or Demand, Asbestos In-Place Insurance Coverage or an Asbestos Insurance Policy, will be permanently and forever stayed, restrained, and enjoined from taking any action against such Settling Asbestos Insurance Company for the purpose of directly or indirectly collecting, recovering, or receiving payments, satisfaction, or recovery with respect to any such Claim, Demand or cause of action, including, without limitation:*

- (ii) *commencing, conducting, or continuing, in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including a judicial, arbitration, administrative, or other proceeding) in any forum with respect to any such Claim, Demand or cause of action against any Settling Asbestos Insurance Company, or against the property or interests in property of any Settling Asbestos Insurance Company;*
- (iii) *enforcing, levying, attaching, collecting, or otherwise recovering, by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against any Settling Asbestos Insurance Company or against the property or interests in property of any Settling Asbestos Insurance Company with respect to any such Claim, Demand or cause of action;*
- (iv) *creating, perfecting, or otherwise enforcing, in any manner, directly or indirectly, any Lien of any kind against any Settling Asbestos Insurance Company or the property or interests in property of any Settling Asbestos Insurance Company with respect to any such Claim, Demand or cause of action;*
- (v) *except as otherwise specifically provided in the Parent's Plan, asserting or accomplishing any setoff, right of subrogation, indemnity, contribution, reimbursement, or recoupment of any kind and in any manner, directly or indirectly, against any obligation due any Settling Asbestos Insurance Company or against the property or interests in property of any Settling Asbestos Insurance Company with respect to any such Claim, Demand or cause of action; and*
- (vi) *taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Parent's Plan Documents relating to such Claim, Demand or cause of action.*

(B) Reservations. Notwithstanding anything to the contrary above or in the Parent's Plan, neither the Asbestos Insurance Company Injunction nor the Parent's Plan shall enjoin, alter, diminish or impair:

- (vii) *the rights of Entities to the treatment accorded them under Articles II and IV of the Parent's Plan, as applicable, including the rights of Entities with Asbestos Personal Injury Claims or Demands to assert Asbestos Personal Injury Claims or Demands against the Section 524(g) Trust in accordance with the Section 524(g) Trust Distribution Procedures;*
- (viii) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment of Section 524(g) Trust Expenses against the Section 524(g) Trust;*
- (ix) *the enforceability of any of the Asbestos Insurance Policies or any Asbestos Insurance Settlement Agreement;*
- (x) *the rights of the Section 524(g) Trustees, if any, with regard to any Asbestos Insurance Company that is not a Settling Asbestos Insurance Company (with the Section 524(g) Trust being, and deemed to be, for all purposes of insurance and indemnity, the successor to the Debtors in respect of all Asbestos Personal Injury Claims, Demands, and other recoveries from an Asbestos Insurance Company, in its capacity as such);*
- (xi) *the rights of Entities to assert any Claim, Demand, debt, obligation or liability for payment against an Asbestos Insurance Company that is not an ASARCO Protected Party unless otherwise enjoined by order of the Bankruptcy Court or the District Court or estopped by a provision of the Parent's Plaor*

- (xii) *the rights of the Section 524(g) Trust or the Section 524(g) Trustees to seek relief from the Asbestos Insurance Company Injunction should a Settling Asbestos Insurance Company fail to fulfill all obligations under an Asbestos Insurance Settlement Agreement.*

(d) Limitation of Injunctions.

Article 11.4 of the Parent's Plan provides that, notwithstanding any other provision of the Parent's Plan to the contrary, the releases set forth in Article 11.1 of the Parent's Plan and the Injunctions set forth in Articles 11.2 and 11.3 of the Parent's Plan, respectively, will not serve to satisfy, discharge, release, or enjoin Claims by any Entity against the Section 524(g) Trust for payment of (a) Asbestos Personal Injury Claims and Demands in accordance with the Section 524(g) Trust Distribution Procedures, or (b) Section 524(g) Trust Expenses, and such releases and/or Injunctions will not enjoin Reorganized ASARCO or the Section 524(g) Trust from enforcing any Asbestos Insurance Policy or any Asbestos Insurance Settlement Agreement.

(e) Exoneration and Reliance.

Article 11.5 of the Parent's Plan provides that, to the extent allowable by law, none of the ASARCO Protected Parties will be liable (other than for criminal liability, willful misconduct or bad faith, or ultra vires acts) to any holder of a Claim, Demand, or Interest or any other Entity with respect to any action, omission, forbearance from action, decision, or exercise of discretion taken at any time through the Effective Date in connection with (a) the management or operation of any of the Debtors or the discharge of its duties under the Bankruptcy Code, (b) the solicitation, negotiation, or implementation of any of the transactions provided for, or contemplated in, the Parent's Plan or other Parent's Plan Documents, (c) any action taken in connection with either the enforcement of the rights of the Debtors against any Entities or the defense of Claims or Demands asserted against the Debtors with regard to the Reorganization Cases, (d) any action taken in the negotiation, formulation, preparation, development, proposal, solicitation, disclosure, Confirmation, or implementation of the Parent's Plan, other Parent's Plan Documents, or related agreements, instruments or other documents, (e) the administration of the Parent's Plan or the assets and property to be distributed pursuant to the Parent's Plan or (f) the administration of any of the Debtors' Estates. The ASARCO Protected Parties will 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 will prevent the enforcement of the terms of the Parent's Plan.

(f) Post-524(g) Indemnity.

Article 11.6 of the Parent's Plan provides that the Post-524(g) Indemnity (as such term is defined in the Asbestos Insurance Settlement Agreement) will go into effect on the Effective Date. Reorganized ASARCO will indemnify and hold harmless, but not defend, the Settled Asbestos Insurance Companies, as provided in paragraph III.C of the Asbestos Insurance Settlement Agreement.

(g) Additional Releases.

Article 11.7 of the Parent's Plan provides that, to the 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, the ASARCO Protected Parties (acting in any capacity whatsoever) will be forever released and discharged from any and all Claims, Demands, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities through the Effective Date (including all Claims and Demands based on or arising out of facts or circumstances that existed as of or prior to the Parent's Plan in any of the Reorganization Cases, including Claims and Demands based on negligence or strict liability, and further including any derivative claims asserted on behalf of any of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that any of the Debtors, their respective Estates, or Reorganized ASARCO would have been legally entitled to assert in its own right, whether individually or collectively) which any of the Debtors, their respective Estates, Reorganized ASARCO, Claimants, holders of Demands or other Persons receiving or who are entitled to receive distributions under the Parent's Plan may have against any of them in any way related to the Reorganization Cases or any of the Debtors (or their respective predecessors or Affiliates); provided, however, the releases provided for in this paragraph will not extend to any claims by any governmental agency with respect to criminal liability, willful misconduct or bad faith, or ultra vires acts; and provided further, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in Articles 11.1, 11.7 and 11.9 of the Parent's Plan, then the protections in



this Article with respect to ASARCO Protected Parties other than the Debtors and Reorganized ASARCO will not go into effect.

(h) Exculpation.

Article 11.8 of the Parent's Plan provides that, to the extent allowable by law, except in the case of a judicial finding by a Final Order of willful misconduct or bad faith, or any criminal liability or liability for ultra vires acts asserted by any Governmental Unit, no ASARCO Protected Party (acting in any capacity whatsoever) will be liable to any Person or Entity for any action, failure or omission to act or other matter related to the Debtors or any of the Reorganization Cases, including those activities described in Article 11.5 of the Parent's Plan, through and including the Effective Date. All parties are permanently enjoined from initiating a suit against any ASARCO Protected Party, except in the case of a judicial finding by a Final Order of actions for willful misconduct or bad faith, or any criminal liability or liability for ultra vires acts asserted by any Governmental Unit. Any such action by a non-Governmental Unit will be brought in the Bankruptcy Court within 90 days after the Effective Date; provided, however, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in Article 11.8 of the Parent's Plan, then the protections in Article 11.8 with respect to ASARCO Protected Parties other than the Debtors and Reorganized ASARCO will not go into effect. Nothing in Article 11.8 of the Parent's Plan will prevent the enforcement of the terms of the Parent's Plan.

(i) Releases by Holders of Claims, Demands, and Interests.

Article 11.9 of the Parent's Plan provides that, to the extent allowable by law, on the Effective Date, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, holders of Claims, Demands, and Interests receiving distributions under the Parent's Plan will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each of the Debtors, Reorganized ASARCO, the ASARCO Protected Parties, the Parent, and Grupo México from any and all Claims, Demands, Interests, obligations, rights, suits, damages, causes of action, remedies and liabilities whatsoever, including Claims and Demands based on negligence or strict liability, and including any derivative claims asserted on behalf of any of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that such holder of a Claim, Demand, or Interest would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, (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, Demand, or Interest, (4) the business or contractual arrangements between any of the Debtors and any ASARCO Protected Party, (5) the restructuring of Claims, Demands, and Interests prior to or in the Reorganization Cases, (6) the negotiation, formulation, or preparation of the Parent's Plan, the Parent's 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, other than Claims, Demands, or liabilities arising out of or relating to any action or omission of an ASARCO Protected Party that constitutes a failure to perform the duty to act in good faith, with the care of an ordinarily prudent person and in a manner the ASARCO Protected Party reasonably believed to be in the best interests of the Debtors (to the extent such duty is imposed by applicable non-bankruptcy law) where such failure to perform constitutes willful misconduct or gross negligence, provided, however, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in this Article, then the protections in this Article with respect to ASARCO Protected Parties other than the Debtors and Reorganized ASARCO will not go into effect.

(j) Release of Fraudulent Transfer Claims Against Settling Asbestos Insurance Companies.

Article 11.10 of the Parent's Plan provides that all fraudulent transfer claims against any Settling Asbestos Insurance Company arising under sections 544(b), 548, 549, or 550 of the Bankruptcy Code or otherwise with respect to the Claims, rights or interests released under the Asbestos Insurance Settlement Agreement will be released, and the Section 524(g) Trust will 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 does not apply to any of the existing Avoidance Actions against certain Asbestos Insurance Companies that entered into prepetition settlement agreements.

(k) No Release With Respect To Pension Plans.

Article 11.11 of the Parent's Plan provides that, notwithstanding any provision in Article 11.11 of the Parent's Plan, or otherwise in the Parent's Plan, or in the Confirmation Order, there will be no release of any claim asserted by PBGC with respect to the Pension Plans against any person, other than the Debtors.

3.14 Certain Matters Incident to Parent's Plan Confirmation.

(a) Term of Certain Injunctions and Automatic Stay.

(1) Article 12.1(a) of the Parent's Plan provides that all of the injunctions and/or stays provided for in or in connection with these Reorganization Cases, whether pursuant to section 105, section 362, section 524, or any other provision of the Bankruptcy Code, other applicable law, or court order, in effect immediately prior to Confirmation will remain in full force and effect until the Injunctions become effective and thereafter if so provided by the Parent's Plan, the Confirmation Order, or by their own terms. In addition, on and after the Confirmation Date, the Parent may seek such further orders as it may deem necessary to preserve the status quo during the time between the Confirmation Date and the Effective Date.

(2) Article 12.1(b) of the Parent's Plan provides that each of the Injunctions will become effective on the Effective Date and will continue in effect at all times thereafter, and may not be vacated, amended or modified after the Effective Date, except as otherwise provided in the Parent's Plan. Notwithstanding anything to the contrary contained in the Parent's Plan, all actions in the nature of those to be enjoined by the Injunctions will be enjoined during the period between the Confirmation Date and the Effective Date.

(b) No Liability for Tax Claims.

Article 12.2 of the Parent's Plan provides that, unless a taxing authority has asserted a Claim against any of the Debtors prior to the applicable Bar Date, no Claim of such taxing authority will be Allowed against such Debtor or Reorganized ASARCO for taxes, penalties, interest, additions to tax, or other charges arising out of the failure, if any, of the applicable Debtor or Reorganized ASARCO, 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 taxable period ending before the Petition Date or arising out of an audit of any return for a taxable period ending before the Petition Date.

(c) No Successor Liability.

(1) Article 12.3(a) of the Parent's Plan provides that, except as otherwise expressly provided in the Parent's Plan, none of the ASARCO Protected Parties will be deemed a successor or successor-in-interest to any of 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 none will be responsible for any successor or transferee liability of any kind or character.

(2) Article 12.3(b) of the Parent's Plan provides that, except as otherwise expressly provided in the Parent's Plan, none of the ASARCO Protected Parties will have any obligations to perform, pay, indemnify creditors for, or otherwise have any responsibilities for any liabilities or obligations of the Debtors or Reorganized ASARCO, whether arising before, on, or after the Confirmation Date.

(d) Insurance Neutrality.

(1) Article 12.4(a) of the Parent's Plan provides that confirmation of the Parent's Plan will not be binding upon, and will not have any res judicata or collateral estoppel effect on or against, any Asbestos Insurance Company that is subject to insurance neutrality under the Bankruptcy Court's May 29, 2008 Order Extending Scope of Insurance Neutrality Addendum Attached to Order Approving Compromise and Settlement Regarding Resolution of Derivative Asbestos Claims (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 and/or scope of its rights

and/or obligations regarding asbestos-related liabilities, if any, and will not have any impact, effect or consequence in any such other context.

(2) Article 12.4(b) of the Parent's Plan provides that neither the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company nor the Section 524(g) 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 Bankruptcy Court's Insurance Neutrality Order and concerning issues related to insurance coverage, that any findings or conclusions concerning 11 U.S.C. § 524(g) and/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 the Parent's 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/or *Fuller-Austin Insulation Co. v. Fireman's Fund Ins. Co.*, 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 any of the Debtors and transferred to the Section 524(g) Trustees in accordance with the provisions of the Parent's Plan. Nothing in the Parent's Plan will limit the ability of the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company or the Section 524(g) Trust to offer the Parent's Plan, any of the Parent's 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 Section 524(g) Trust are so bound.

(3) Article 12.4(c) of the Parent's Plan provides that nothing in the Parent's Plan will operate to expand the rights of the Debtors, any of the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company or the Section 524(g) 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 Bankruptcy Court's Insurance Neutrality Order as of the Petition Date except as set out in Article 12.4(f) of the Parent's Plan. Moreover, nothing in the Confirmation process will 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 the Parent's Plan had not been confirmed except as set out in Article 12.4(f) of the Parent's Plan; and all of such Asbestos Insurance Company's rights are expressly reserved and preserved. Such Asbestos Insurance Company's rights will be determined pursuant to its insurance policies with the applicable 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 the Debtors' asbestos-related liabilities for or such Asbestos Insurance Company's obligations to indemnify the applicable Debtors on account of any or all of such asbestos-related liabilities, if any, will not be affected, restricted, expanded, altered or modified by anything in or part of the Parent's Plan or the Confirmation process. An Asbestos Insurance Company will have no such discovery rights in any of the Reorganization Cases; provided, however, that such Asbestos Insurance Company will 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 applicable Debtors on account of any asbestos-related liabilities. Without limiting the foregoing, except as set out in Article 12.4(f) of the Parent's Plan, 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) will 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 and/or consented to the procedures undertaken pursuant to the Parent's Plan. Any ruling by the Bankruptcy Court on any issue upon which such Asbestos Insurance Company does not involve itself and the Confirmation Order will 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 the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company or the Section 524(g) Trust may offer the Parent's Plan, any of the Parent's 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 ASARCO Committee, and the FCR, the court and the finder of fact in any insurance coverage litigation will 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.

(4) Article 12.4(d) of the Parent's Plan provides that, with regard to any Asbestos Insurance Company that is subject to insurance neutrality under the Bankruptcy Court's Insurance Neutrality Order, nothing in or part of the Parent's Plan and the Confirmation process will 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.

(5) Article 12.4(e) of the Parent's Plan provides that an Asbestos Insurance Company that is subject to insurance neutrality under the Bankruptcy Court's Insurance Neutrality Order does not participate in the negotiation, nor the Confirmation, of the Parent's Plan will 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 and/or scope of such Asbestos Insurance Company's rights and/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 and/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 and/or scope of such Asbestos Insurance Company's rights and/or obligations regarding asbestos-related liabilities, if any, any coverage defenses based on collusion against and/or lack of cooperation with such Asbestos Insurance Company on any basis other than such Asbestos Insurance Company's absence from the Reorganization Cases.

(6) Article 12.4(f) of the Parent's Plan provides that any of the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company, or the Section 524(g) Trust may offer in any court, including any court resolving any insurance coverage litigation, any relevant portion of the Parent's Plan and any of the Parent's Plan Documents and/or the Confirmation Order for any purpose, including, without limitation, that the Parent's Plan was a reasonable settlement; provided, however, such offer will be subject to the rights, defenses (including affirmative defenses) and objections, if any, of the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company and the Section 524(g) Trust.

### 3.15 Assumption and Rejection of Unexpired Leases and Executory Contracts.

#### (a) Assumption or Rejection of Unexpired Leases and Executory Contracts.

Article 8.1 of the Parent's Plan provides that, on the Effective Date, except as otherwise provided in the Parent's Plan, any unexpired lease or executory contract that has not been previously assumed or rejected by any Debtor pursuant to an order of the Bankruptcy Court will be deemed assumed 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 on Exhibit 3 to the Parent's Plan (as such list may be amended, supplemented or modified on or before the Confirmation Date) or (b) subject to a motion to reject that is pending on the Effective Date. Entry of the Confirmation Order will constitute approval of

such assumptions, and the rejection of the executory contracts or unexpired leases listed in **Exhibit 3** to the Parent's Plan (as such list may be amended, supplemented or modified on or before the Confirmation Date), pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Any motions to reject executory contracts and unexpired leases pending on the Effective Date will be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order.

(b) Approval of Assumption or Rejection of Executory Contracts and Unexpired Leases.

Article 8.2 of the Parent's Plan provides that entry of the Confirmation Order will, 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 of the executory contracts and unexpired leases assumed pursuant to Article 8.1 of the Parent's Plan; (b) the extension of time, pursuant to section 365(d)(4) of the Bankruptcy Code, within which the Debtors or Reorganized ASARCO may assume, assume and assign, or reject the unexpired leases specified in Article 8.1 of the Parent's 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 the Parent's Plan.

(c) Inclusiveness.

Article 8.3 of the Parent's Plan provides that, unless otherwise specified on **Exhibit 3** to the Parent's Plan, each executory contract and unexpired lease listed or to be listed on **Exhibit 3** to the Parent's Plan will include modifications, amendments, supplements, restatements or other agreements made directly or indirectly by any agreement, instrument, or other document that in any manner affects such executory contract or unexpired lease, without regard to whether such agreement, instrument or other document is listed on **Exhibit 3** to the Parent's Plan.

(d) Rejection Damages.

Article 8.4 of the Parent's Plan provides that the Bankruptcy Court will 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.

(e) Rejection Damages Bar Date.

Article 8.5 of the Parent's Plan provides that, the rejection by a Debtor, pursuant to Article 8.1 of the Parent's Plan, of an executory contract or unexpired lease results in a Claim, then such Claim will be forever barred and discharged and will not be enforceable against the Debtors, Reorganized ASARCO, or their respective properties, unless a Proof of Claim is filed and served upon the Parent's Plan Administrator within thirty 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 will become, and will be treated for all purposes under the Parent's Plan as, a General Unsecured Claim, and the holder thereof will receive distributions as a holder of an Allowed General Unsecured Claim, pursuant to the Parent's Plan.

(f) Payments Related to Assumption of Executory Contracts and Unexpired Leases.

Article 8.6 of the Parent's Plan provides that, to the extent that Cure Amount Claims constitute monetary defaults, such Cure Amount Claims will be satisfied by Reorganized ASARCO, pursuant to section 365(b)(1) of the Bankruptcy Code: (1) by payment of the Cure Amount Claim on the Effective Date; or (2) on such other terms as are agreed to by the Parent 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 or (B) any other matter pertaining to 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 will be made following the entry of a Final Order resolving the dispute and approving the assumption and assignment.

(g) Employee Benefit Plans and Other Benefits.

(1) Article 8.7(a) of the Parent's Plan provides that, effective as of the Effective Date, Reorganized ASARCO will be responsible for all benefits and liabilities with respect to the Employee Benefit Plans.

(2) Article 8.7(b) of the Parent's Plan provides that all of the applicable Debtors' liabilities and obligations arising under the Employee Benefit Plans and workers' compensation benefits, even if such

liability or obligation relates to Claims incurred (whether or not reported or paid) prior to the Effective Date, will be deemed to be, and will be treated as though they are, executory contracts that are deemed assumed under the Parent's Plan pursuant to sections 365(a), 365(f) and 1123 of the Bankruptcy Code.

(3) Article 8.7(c) of the Parent's Plan provides that Reorganized ASARCO will be responsible for all of each Debtor'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).

(4) Article 8.7(d) of the Parent's Plan provides that ASARCO sponsors two defined benefit pension plans, the Retirement Income Plan for Hourly-Rated Employees of ASARCO, Inc. and the Retirement Income Plan for Salaried Employees of ASARCO, Inc. (collectively, the "Pension Plans"), which are covered by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1301-1461 (2000 and Supp. V 2005). ASARCO will satisfy its minimum funding obligations to the Pension Plans during the pendency of this proceeding, and through the Effective Date. In the event that one or both of the Pension Plans terminate during the pendency of this proceeding, certain claims will arise, including joint and several liabilities of the Debtors to PBGC that may be entitled to priority under various Bankruptcy Code provisions. As of the Effective Date, Reorganized ASARCO, and the members of its controlled group for purposes of ERISA, as applicable from time to time (the "Controlled Group"), will be responsible for satisfying the minimum funding obligations to the Pension Plans subsequent to the Effective Date. In the event that one or both of the Pension Plans terminate subsequent to the Effective Date, the liability of Reorganized ASARCO, and the Controlled Group, to PBGC, if any, will not be affected by any provision of the Parent's Plan or by confirmation of the Parent's Plan, and, in particular but without limitation, any claims, if any, or other legal obligations relating to the Pension Plans will not be discharged, released, or expunged, or be subject to Section 11.2 of the Parent's Plan.

(5) Article 8.7(e) of the Parent's Plan provides that Reorganized ASARCO will assume and be responsible for all of the Debtors' obligations to pay retiree benefits, as defined in section 1114 of the Bankruptcy Court, for the duration of the period the applicable Debtor has obligated itself to provide such benefits. After the Effective Date, Reorganized ASARCO will retain their rights to amend, modify or terminate retiree benefits in accordance with all relevant agreements and applicable law, including any collective bargaining agreement that may be entered into between the USW and Reorganized ASARCO.

(h) Surety Bonds.

Article 8.8 of the Parent's Plan provides that all Surety Bonds will be retained or deemed Reinstated, as the case may be, on the Effective Date and will revert to the benefit of Reorganized ASARCO.

3.16 Miscellaneous.

(a) General Retention of Jurisdiction.

Article 15.1 of the Parent's Plan provides that, 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) will 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 will 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 in the Parent's Plan will prevent Reorganized ASARCO, the Parent's Plan Administrator, the Parent, the Section 524(g) Trustees, the Environmental Liquidation Trustee 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 will survive entry of the Confirmation Order and occurrence of the Effective Date and will not be affected thereby except as specifically provided in the Parent's Plan.

(b) Jurisdiction over the Section 524(g) Trust.

Article 15.2 of the Parent's Plan provides that the Section 524(g) Trust will 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.

(c) Specific Purposes.

Article 15.3 of the Parent's Plan provides that, without limiting the effect of Articles 15.1 and 15.2 of the Parent's Plan, the Bankruptcy Court will retain jurisdiction after Confirmation to:

- (1) 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;
- (2) 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;
- (3) 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;
- (4) 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;
- (5) 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;
- (6) 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;
- (7) 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;
- (8) 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;
- (9) 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;

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

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

(12) ensure that distributions to holders of Allowed Claims and Demands are accomplished as provided in the Parent's Plan;

(13) reduce the size of the Disputed Claims Reserve based upon the amount of the remaining Disputed Claims or other changed circumstances, including increases in Reorganized ASARCO's cash positions;

(14) 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;

(15) 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;

(16) 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;

(17) 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;

(18) 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;

(19) 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;

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

(21) 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;

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

(23) 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;

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

(25) 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;

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



(27) 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;

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

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

(30) 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.

(d) Exclusive Jurisdiction of District Court for Certain Matters.

(1) Article 15.4(a) of the Parent's Plan provides that the District Court will, 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 will be non-exclusive with respect to any Asbestos Insurance Action or Asbestos Insurance Recovery. Nothing contained in the Parent's Plan will be deemed a finding or conclusion that: (a) the Bankruptcy Court or District Court in fact have jurisdiction with respect to any Asbestos Insurance Action or Asbestos Insurance Recovery; (b) any such jurisdiction is exclusive with respect to any Asbestos Insurance Action or Asbestos Insurance Recovery; or (c) 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 will have the right to exercise such jurisdiction.

(2) Article 15.4(b) of the Parent's Plan provides that, 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 will continue, but subject to Article 15.4 of the Parent's Plan 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.

(e) Post-Effective Date Status of the Committees and the FCR.

Article 15.5 of the Parent's Plan provides that the Committees and the position of the FCR will 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 will 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. Except as provided above, the Committees will be dissolved on the Effective Date, and the members, attorneys, accountants, and other professionals thereof will be released and discharged of and from all further authority, duties, responsibilities, liabilities, and obligations related to, or arising from, the Reorganization Cases.

(f) Modification of Parent's Plan.

Article 15.6 of the Parent's Plan provides that 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.

(g) Non-Consummation.

Article 15.7 of the Parent's Plan provides that, 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 in the Parent's Plan (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 will be bound or deemed prejudiced by any such concession or settlement, (ii) the Parent's Plan will 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 effected by the Parent's Plan, and any document or agreement executed pursuant to the Parent's Plan will 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, will 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 in the Parent's Plan will have no evidentiary or precedential effect.

(h) Entire Agreement.

Article 15.8 of the Parent's Plan provides that, 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.

(i) Rules Governing Conflicts Between Documents.

Article 15.9 of the Parent's Plan provides that, 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 will 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 will control.

(j) Severability.

Article 15.10 of the Parent's Plan provides that, 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 of the Parent's Plan so that such provision will not be applicable to the holder of any Claim, Demand, Interest, or transaction. Such determination of unenforceability will not (a) limit or affect the enforceability and operative effect of any other provision of the Parent's Plan or (b) require the resolicitation of any acceptance or rejection of the Parent's Plan.

(k) Headings.

Article 15.11 of the Parent's Plan provides that headings are utilized in the Parent's Plan for convenience and reference only and will not constitute a part of the Parent's Plan for any other purpose.

(l) Bar Date for Compensation and Reimbursement Claims.

Article 15.12 of the Parent's Plan provides that 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.

(m) Subsequent Administrative Claims Bar Date.

Article 15.13 of the Parent's Plan provides that 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 will be addressed through the Environmental Custodial Trusts and/or Environmental Liquidation Trust, as applicable.

(n) Governing Law.

Article 15.14 of the Parent's Plan provides that, 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 will 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.

(o) Consent to Jurisdiction.

Article 15.15 of the Parent's Plan provides that, except for the matters within the exclusive jurisdiction of the District Court as described in Article 15.4 of the Parent's Plan, the Debtors, 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 of the Parent's Plan, 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 will be the preferred forum for all matters within the exclusive jurisdiction of the District Court as described in Article 15.4 of the Parent's Plan.

(p) Transfer Taxes.

Article 15.16 of the Parent's Plan provides that 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 will not, pursuant to section 1146 of the Bankruptcy Code, be taxed under any law imposing a stamp tax, transfer tax, or other similar tax.

(q) Recordable Order.

Article 15.17 of the Parent's Plan provides that the Confirmation Order will be deemed to be in recordable form, and will be accepted by any recording officer for filing and recording purposes without further or additional orders, certifications, or other supporting documents.

(r) Successors and Assigns.

Article 15.18 of the Parent's Plan provides that the rights, duties, and obligations of any Entity named or referred to in the Parent's Plan will be binding upon, and will inure to the benefit of, the successors and assigns of such Entity.

(s) Waiver of Rights.

Article 15.18 of the Parent's Plan provides that holders of Claims, Demands or Interests will 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 will supersede such rights, benefits or protections. Any such waiver will only be effective if such party expressly and specifically waives in writing one or more of such rights, benefits or protections.

SECTION 4  
SECTION 524(G) TRUST

Article VI of the Parent's Plan, outlined below, will apply if the Section 524(g) Treatment goes into effect.

4.1 Establishment and Purpose of the Section 524(g) Trust.

Article 6.1(a) of the Parent's Plan provides that, on the Effective Date, the Section 524(g) Trust will be established in accordance with the Parent's Plan Documents. When established, the Section 524(g) Trust will be empowered in accordance with the Parent's Plan and the Parent's Plan Documents. The Section 524(g) Trust will be a "qualified settlement fund" within the meaning of Treasury Regulation section 1.468B-1. The purposes of the Section 524(g) Trust will be to, among other things, (a) liquidate, resolve, pay, and satisfy all Asbestos Personal Injury Claims and Demands in accordance with the Parent's Plan, the Section 524(g) Trust Distribution Procedures, the Section 524(g) Trust Agreement, and the Confirmation Order, (b) receive, preserve, hold, manage, and maximize the Section 524(g) Trust Assets for use in paying and satisfying Allowed Asbestos Personal Injury Claims and Demands in accordance with the terms of the Section 524(g) Trust Agreement, and (c) take other actions deemed by the Section 524(g) Trustees to be in the best interests of the holders of the Asbestos Personal Injury Claims and Demands, who are the sole beneficiaries of the Section 524(g) Trust.

Article 6.1(b) of the Parent's Plan provides that the Section 524(g) Trustees will create an Asbestos Premises Liability Claims Fund for payment of Asbestos Premises Liability Claims and Demands. The Asbestos Premises Liability Claims Fund will be funded with, directly or indirectly: (a) proceeds from certain Asbestos Insurance Policies that are subject to prepetition settlement agreements regarding Asbestos Premises Liability Claims and Demands; (b) additional proceeds, if any, from the Asbestos Insurance Recoveries that are applicable to Asbestos Premises Liability Claims and Demands; and (c) if necessary, an amount determined by the Section 524(g) Trustees, in their sole discretion, to satisfy all Asbestos Premises Liability Claims and Demands, if any, that are not subject to coverage under the prepetition settlement agreements referenced in the Parent's Plan. Asbestos Premises Liability Claims and Demands will be processed, liquidated and paid pursuant to the terms and provisions of the Section 524(g) Trust Distribution Procedures and the Section 524(g) Trust Agreement.

4.2 Section 524(g) Trust Agreement.

Article 6.2 of the Parent's Plan provides that the Section 524(g) Trust Agreement will be substantially in the form of the "Section 524(g) Trust Agreement" attached as **Exhibit 11** to the Parent's Plan, which contains provisions customary to documents utilized in comparable circumstances, and will be subject to the reasonable approval of the FCR and the Asbestos Claimants' Committee.

4.3 Transfers and Assignments to the Section 524(g) Trust.

Article 6.3 of the Parent's Plan provides that, on the Effective Date, the Parent's Plan Administrator will transfer and assign to the Section 524(g) Trust for the benefit of the Section 524(g) Trust Beneficiaries the Section 524(g) Trust Assets.

4.4 Control of the Asbestos Insurance Actions and Asbestos Insurance Recoveries.

Article 6.4 of the Parent's Plan provides that right to control the Asbestos Insurance Actions and all Asbestos Insurance Recoveries, including negotiations relating thereto and settlements thereof, shall be vested in the Section 524(g) Trust on and after the Effective Date. Notwithstanding the foregoing, Reorganized ASARCO, the Parent's Plan Administrator and the Parent shall cooperate with the Section 524(g) Trustees in pursuing the Asbestos Insurance

Actions through such means, and shall provide reasonable access to personnel and books and records of Reorganized ASARCO relating to the Asbestos Insurance Actions to representatives of the Section 524(g) Trust, to enable the Section 524(g) Trustees to perform the Section 524(g) Trustees' tasks under the Section 524(g) Trust Agreement and the Parent's Plan, as set forth in the Section 524(g) Trust Cooperation Agreement and as is discussed in Article 6.11 of the Parent's Plan in regards to Reorganized ASARCO.

4.5 Assumption of Liabilities by the Section 524(g) Trust.

Article 6.5 of the Parent's Plan provides that on the Effective Date, in exchange for funding in accordance with Article 6.3 of the Parent's Plan, the Section 524(g) Trust shall be deemed, without need for further action, to have assumed responsibility and liability for all Asbestos Personal Injury Claims and Demands.

4.6 Tax Matters.

Article 6.6 of the Parent's Plan provides that no election will be made to treat the Section 524(g) Trust as a grantor trust for U.S. federal income tax purposes. The Section 524(g) Trust is intended to be treated as a "qualified settlement fund" within the meaning of Treasury Regulation section 1.468B-1, and hence as a taxable entity for federal income tax purposes, and the Section 524(g) Trustees will be the "administrators" of the Section 524(g) Trust pursuant to Treasury Regulation section 1.468B-2(k)(3). The Section 524(g) Trustees will cause all taxes imposed on the Section 524(g) Trust to be paid using assets of the Section 524(g) Trust and will comply with all tax reporting and withholding requirements imposed on the Section 524(g) Trust under applicable tax laws, and in particular the rules applicable to a qualified settlement fund.

4.7 Section 524(g) Trust Expenses.

Article 6.7 of the Parent's Plan provides that the Section 524(g) Trust shall initially be funded in the amount of \$27.5 million, which amount shall be deemed an Administrative Expense, to pay Section 524(g) Trust Expenses (including applicable taxes). Following such initial funding, neither the Debtors, the Parent, the Parent's Plan Administrator, nor Reorganized ASARCO shall have any obligation to pay or reimburse any Section 524(g) Trust Expenses. However, nothing shall preclude the Section 524(g) Trustees from seeking reimbursement of such expenses from any Asbestos Insurance Company.

4.8 Initial Section 524(g) Trustees.

Article 6.8 of the Parent's Plan provides that the initial Section 524(g) Trustees will be those Persons nominated by the Asbestos Claimants' Committee and the FCR, if the Asbestos Claimants' Committee and the FCR are willing to make such nominations, or otherwise nominated by the Parent, and designated in the Confirmation Order.

4.9 The FCR.

Article 6.9 of the Parent's Plan provides that, on and after the Effective Date, Judge Robert C. Pate will serve as the FCR, as such term is defined in the Section 524(g) Trust Agreement, and will 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.

4.10 Section 524(g) Trust Advisory Committee.

Article 6.10 of the Parent's Plan provides that the initial members of the Section 524(g) Trust Advisory Committee shall be those Persons nominated by the Asbestos Claimants' Committee if the Asbestos Claimants' Committee is willing to make such nominations, or otherwise nominated by the Parent, and designated in the Confirmation Order. They shall consult with and advise the Section 524(g) Trustees regarding the administration of the Section 524(g) Trust and the liquidation and resolution of Asbestos Personal Injury Claims and Demands in accordance with the provisions of the Parent's Plan and the Section 524(g) Trust Documents.

#### 4.11 Asbestos Books.

Article 6.11(a) of the Parent's Plan provides that, subject to the conditions set forth herein and as more fully described in the Section 524(g) Cooperation Agreement, the Section 524(g) Trust, through its duly authorized representatives, shall have the right, upon reasonable prior written notice to Reorganized ASARCO, to either, at the election of Reorganized ASARCO in its sole discretion: (a) have Reorganized ASARCO transfer into the Section 524(g) Trust's possession all or part of the Asbestos Books in their current condition upon request of the Section 524(g) Trust and on the condition that the Section 524(g) Trust will incur all costs and expenses of the transfer; or (b) to inspect and, at the sole expense of the Section 524(g) Trust, make copies of the Asbestos Books on any Business Day and as often as may reasonably be desired; provided that, if so requested, the Section 524(g) Trust shall have entered into a reasonable confidentiality agreement satisfactory in form and substance to Reorganized ASARCO. All costs and expenses associated with the storage of any Asbestos Books that remain in the possession of Reorganized ASARCO shall be the responsibility of, and paid by, Reorganized ASARCO. All costs and expenses associated with the storage of and access to any Asbestos Books that are transferred to the Section 524(g) Trust shall be the responsibility of, and paid by, the Section 524(g) Trust. Reorganized ASARCO, the Parent's Plan Administrator and the Parent shall cooperate with the Section 524(g) Trust in transferring or providing access to the Asbestos Books in their current condition, and shall also provide reasonable access to necessary or appropriate personnel and the Asbestos Books as contemplated herein and in the Section 524(g) Cooperation Agreement. Subject to the conditions set forth herein and in the Section 524(g) Cooperation Agreement, the Section 524(g) 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. Reorganized ASARCO shall provide the Section 524(g) Trust with advance notice of any proposed disposition of any of the Asbestos Books and a reasonable opportunity to segregate and remove such Asbestos Books as the Section 524(g) Trust may select.

Article 6.11(b) of the Parent's Plan provides that if the Section 524(g) Trust obtains from Reorganized ASARCO or its representatives any documents or communications (whether written or oral) to which any attorney-client, work-product privilege or other privilege or immunity attaches, the Section 524(g) Trust shall be deemed a privilege holder for purposes of 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. Production of materials to the Section 524(g) Trust does not constitute a waiver or an impairment of any privilege held by Reorganized ASARCO or ASARCO. Unless otherwise ordered by the Bankruptcy Court, in processing and determination of, objection to, or otherwise in connection with Asbestos Personal Injury Claims or in connection with any Asbestos Insurance Recovery, as determined by the Section 524(g) Trust, the information contained in the Asbestos Books shall be treated as confidential. Except as otherwise provided herein, in the event that any third party challenges any such privilege or confidentiality, Reorganized ASARCO may seek protection from a court of competent jurisdiction. References in Article 6.11 of the Parent's Plan to Reorganized ASARCO shall also include its successors in interest.

#### 4.12 Cooperation with Respect to Insurance Matters.

Article 6.12 of the Parent's Plan provides that Reorganized ASARCO and the Parent will cooperate with the Section 524(g) Trust and use commercially reasonable efforts to take or cause to be taken all appropriate actions and to do or cause to be done all things necessary or appropriate to effectuate all transfers and assignments identified in the Parent's Plan to the Section 524(g) Trust. By way of enumeration and not of limitation, Reorganized ASARCO and ASARCO each will be obligated, without limitation, (a) to provide the Section 524(g) Trust with copies of insurance policies and settlement agreements included within or relating to the Asbestos Personal Injury Claims and Demands; (b) to provide the Section 524(g) Trust with information necessary or helpful to the Section 524(g) Trust in connection with its efforts to obtain insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries, including, without limitation, recoveries of extracontractual damages; (c) to execute assignments or allow the Section 524(g) Trust to pursue claims in its own name (subject to appropriate disclosure of the fact that the Section 524(g) Trust is doing so and the reasons why it is doing so), including by means of arbitration, alternative dispute resolution proceedings or litigation, to the extent necessary or helpful to the efforts of the Section 524(g) Trust to obtain insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries, including, without limitation, recoveries of extracontractual damages; and (d) to pursue and recover insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries, including, without limitation, recoveries of extracontractual damages, in its own name or right to the extent that any or all of the transfers and assignments identified in the Parent's Plan are not able to be fully effectuated, with any and all recoveries therefrom to be turned over to the Section 524(g) Trust. The Section 524(g) Trust will be obligated to compensate Reorganized ASARCO and ASARCO for all costs and expenses

reasonably incurred in connection with providing assistance to the Section 524(g) Trust under Article 6.12 of the Parent's Plan, including, without limitation, out-of-pocket costs and expenses, consultant fees and attorneys' fees.

#### 4.13 Indemnification by the Section 524(g) Trust.

Article 6.13(a) of the Parent's Plan provides that the Section 524(g) Trust will indemnify, defend (and, where applicable, pay the defense costs for), and hold harmless each of the ASARCO Protected Parties from any and all liabilities associated with an Asbestos Personal Injury Claim or Demand that a third party seeks to impose upon any of the ASARCO Protected Parties, or that are imposed upon any of the ASARCO Protected Parties.

Article 6.13(b) of the Parent's Plan provides that, in the event that the Section 524(g) Trust makes a payment to any of the ASARCO Protected Parties hereunder, and the liability on account of which such payment was made is subsequently diminished, either directly or through a third-party recovery, the applicable ASARCO Protected Party will promptly repay the Section 524(g) Trust the amount by which the payment made by the Section 524(g) Trust exceeds the actual cost of such indemnified liability.

### SECTION 5 ENVIRONMENTAL CUSTODIAL & ENVIRONMENTAL LIQUIDATION TRUSTS

#### 5.1 Environmental Liquidation Trust.

Article 7.1 of the Parent's Plan provides that, on the Effective Date, the Environmental Liquidation Trust will be established and funded with the Environmental Liquidation Trust Assets. All Environmental Trust Claims with respect to the Designated Properties transferred to the Environmental Liquidation Trust will be Reinstated on the Effective Date. In exchange for the Environmental Liquidation Trust Assets, the Environmental Liquidation Trust will assume liability for all Environmental Trust Claims with respect to the Designated Properties transferred to the Environmental Liquidation Trust, as provided in the Environmental Liquidation Trust Agreement, and the ASARCO Protected Parties will have no further liabilities with respect to such Environmental Trust Claims. In addition, all Administrative Claims of the United States or any individual state under civil Environmental Laws relating to all Designated Properties transferred to the Environmental Liquidation Trust will be assumed by the Environmental Liquidation Trust.

In accordance with the Environmental Liquidation Trust Agreement, as soon as practicable after the Effective Date, the Environmental Liquidation Trust will commence Remedial Actions with respect to the Designated Properties, and will thereafter facilitate, oversee, and fund environmental clean-up efforts such that each Designated Property is cleaned up to regulatory closure in accordance with a cleanup plan approved by the EPA or the state having authority over such Designated Property. The Environmental Liquidation Trust will liquidate Designated Properties as they are cleaned up to regulatory closure, with the proceeds of such liquidations used solely to fund further Remedial Actions with respect to the other Designated Properties, provided that, with respect to any individual Designated Property, no funds will be distributed for cleanup efforts in excess of the amount of the Environmental Liquidation Funding listed on Exhibit 16-A to the Parent's Plan for such Designated Property plus any additional funds made available by the sale of other Designated Properties. Once all Designated Properties have been cleaned up to regulatory closure and liquidated, any remaining Environmental Liquidation Trust Administration Funding, Environmental Liquidation Trust Funding, proceeds from sales of Designated Properties, and any other Cash or assets of the Environmental Liquidation Trust will be distributed to Reorganized ASARCO.

Notwithstanding anything to the contrary in the Parent's Plan or the Environmental Liquidation Trust Agreement, (a) to the extent an Entity asserts a valid Lien with respect to property contained within or on a Designated Property, such entity will retain such Lien unless the Allowed Secured Claim of such Entity has been Paid in Full; and (b) to the extent an Entity has asserted a Lien with respect to property contained within or on a Designated Property but does not possess an Allowed Secured Claim with respect to such purported collateral, any proceeds of such property will be segregated by the Environmental Liquidation Trust until such time as such Entity's purported Secured Claim is allowed or disallowed and may only be utilized by the Environmental Liquidation Trust in the event such purported Secured Claim is disallowed.

In the event the federal and state agencies with interests in the El Paso Smelter do not unanimously elect to have the El Paso Smelter transferred to an Environmental Custodial Trust, the Parent will surrender the El Paso

Smelter's air permit and will not (i) reopen the El Paso Smelter, (ii) sell the El Paso Smelter as an operating facility, or (iii) transfer the El Paso Smelter's air permit to the Environmental Liquidation Trust.

5.2 Environmental Liquidation Trustees.

Article 7.2 of the Parent's Plan provides that, not less than ten days prior to the commencement of the Confirmation Hearing, the Parent will designate the Persons who will initially serve as the Environmental Liquidation Trustees. Upon approval by the Bankruptcy Court in the Confirmation Order, the Environmental Liquidation Trustees will be appointed.

5.3 Environmental Custodial Trust.

Article 7.3 of the Parent's Plan provides that, if the applicable federal and state agencies holding Allowed Environmental Trust Claims with respect to one or more Designated Properties unanimously elect to have such Designated Properties transferred to an Environmental Custodial Trust, then, on or before the Effective Date, the applicable Environmental Custodial Trust(s) shall be created, the Custodial Trust Administrative Account(s) shall be funded pursuant to the applicable Environmental Custodial Trust Agreement(s), and, on the Effective Date, the Debtors' respective rights, title, and interests in the Designated Elected Properties, together with the appropriate Environmental Custodial Trust Funding and Environmental Custodial Trust Administration Funding for the Designated Elected Properties shall be transferred to the applicable Environmental Custodial Trust(s), which shall take title pursuant to the applicable Environmental Custodial Trust Agreement(s). In exchange for the Environmental Custodial Trust Assets, each Environmental Custodial Trust shall assume liability for all Environmental Trust Claims with respect to the Designated Elected Properties transferred to it. In addition, all Administrative Claims of the United States or any individual state under civil Environmental Laws relating to each Designated Elected Property transferred to an Environmental Custodial Trust shall be assumed by such Environmental Custodial Trust.

In accordance with the applicable Environmental Custodial Trust Agreement, as soon as practicable after the Effective Date, each Environmental Custodial Trust shall commence Remedial Actions with respect to its Designated Elected Properties, and shall thereafter facilitate, oversee, and fund environmental clean-up efforts such that each Designated Elected Property is cleaned up to regulatory closure in accordance with a cleanup plan approved by the EPA or the State having authority over such Designated Elected Property. Each Environmental Custodial Trust shall liquidate the applicable Designated Elected Properties as they are cleaned up to regulatory closure, with the proceeds of such liquidations used solely to fund further Remedial Actions with respect to the other Designated Elected Properties in such Environmental Custodial Trust, if any. Once all Designated Elected Properties in any Environmental Custodial Trust have been cleaned up to regulatory closure and liquidated, any remaining applicable Environmental Custodial Trust Administration Funding, Environmental Custodial Trust Funding, proceeds from the sale of the applicable Designated Elected Properties, and any other Cash or assets of such Environmental Custodial Trust shall be distributed according to the terms of the applicable Environmental Custodial Trust Agreement.

Notwithstanding anything to the contrary in the Parent's Plan or any Environmental Custodial Trust Agreement, (a) to the extent an Entity asserts a valid Lien with respect to property contained within or on a Designated Property, such entity will retain such Lien unless the Allowed Secured Claim of such Entity has been Paid in Full; and (b) to the extent an Entity has asserted a Lien with respect to property contained within or on a Designated Property but does not possess an Allowed Secured Claim with respect to such purported collateral, any proceeds of such property will be segregated by the Environmental Custodial Trust until such time as such Entity's purported Secured Claim is allowed or disallowed and may only be utilized by the Environmental Custodial Trust(s) in the event such purported Secured Claim is disallowed.

5.4 Environmental Custodial Trustees.

Article 7.4 of the Parent's Plan provides that, not less than ten days prior to the commencement of the Confirmation Hearing, the DOJ (in consultation with the states that have Allowed Environmental Trust Claims with respect to any Designated Elected Properties) will designate the Persons who will initially serve as the Environmental Custodial Trustees. Upon approval by the Bankruptcy Court in the Confirmation Order, the Environmental Custodial Trustees will be appointed.



### 5.5 Tax Matters.

Article 7.5 of the Parent's Plan provides that the Parent's Plan Administrator will treat the assets held in the Environmental Liquidation Trusts as owned by Reorganized ASARCO for U.S. federal income tax purposes (and solely for U.S. federal income tax purposes) and not as a qualified settlement fund within the meaning of Treasury Regulations section 1.468B-2(k)(3). Accordingly, tax on the income from the assets held in the Disputed Claims Reserve will be paid by Reorganized ASARCO or certain of its Affiliates. The Parent's Plan Administrator will distribute to Reorganized ASARCO from the Environmental Liquidation Trust within 30 days of the close of each calendar year an amount equal to the product of (x) the taxable income of the Disputed Claims Reserve (computed as if the Environmental Liquidation Trust were a corporation for U.S. federal income tax purposes) and (y) the sum of (1) highest rate of tax imposed by section 11 of the Internal Revenue Code with respect to such calendar year and (2) five percent. The Parent's Plan Administrator will treat the assets held in the Environmental Custodial Trusts as having been transferred to the beneficiaries of those trusts and not as owned by Reorganized ASARCO for U.S. federal income tax purposes. The transferee beneficiaries of such Environmental Custodial Trusts may elect any available tax treatment for such trusts as they may choose. In no event will Reorganized ASARCO be liable for any taxes imposed on or with respect to any income derived by any Environmental Custodial Trust

## SECTION 6 ESTIMATION OF CLAIMS AND VALUATION OF DISTRIBUTABLE ASSETS

### 6.1 Estimated Claims and Estimated Recoveries by Class.

The Debtors' Estimated Aggregate Amounts of Claims, detailed in the charts beginning on page 4 above, are based on estimates provided by the Debtors; no representation can be made that such information is without inaccuracy.

The Estimated Percentage Recoveries Under the Parent's Plan, detailed in the charts beginning on page 4 above, apply to holders of Allowed Claims, and are subject to uncertainties in the estimation and/or litigation of Claims. Therefore, no assurance can be given that the estimated Claims are exact or that the estimated recoveries shall be achieved.

### 6.2 Funding of Plan.

The Parent's Plan will be funded primarily by the Parent Contribution and the Distributable Cash. In addition, the Parent will cause the Tax Refund to be transferred to Reorganized ASARCO, the Parent will provide for distributions for holders of Asbestos Personal Injury Claims and Demands in the form a \$250 million ASARCO Note, the Parent will cause Reorganized ASARCO to retain the Debtors' liabilities with respect to any Reinstated Claims, and the Parent will cause Reorganized ASARCO to assume the Debtors' environmental liabilities with respect to the Owned Strategic Properties and other Real Property.

### 6.3 Working Capital.

The Parent's Plan provides that working capital for Reorganized ASARCO will be funded by a \$200 million Working Capital Facility, the Tax Refund and proceeds of the Litigation Claims, including a claim against Sterlite of up to \$3 billion. In addition, the Parent believes that the operations of Reorganized ASARCO will generate sufficient cash to, in conjunction with the Working Capital Facility and Tax Refund amount, meet the working capital needs of Reorganized ASARCO. The Parent's Plan does not impose any limitations on Reorganized ASARCO's ability to incur debt.

## SECTION 7 RISKS OF THE PARENT'S PLAN

### 7.1 General.

The following provides a summary of various risks associated with the Parent's Plan. However, it is not exhaustive and should be supplemented by careful analysis and evaluation of the Parent's Plan and this Disclosure Statement as a whole by each holder of a Claim, Demand or an Interest with that holder's own advisors.

## 7.2 Confirmation Risks.

In order for the Parent's Plan to be confirmed, the Bankruptcy Code generally requires that Impaired Classes vote to accept the Parent's Plan, and voting creditors in each Class approve the Parent's Plan by:

- over one-half in number of creditors (50% + 1); and
- at least two-thirds in dollar amount.

In addition, to obtain a section 524(g) injunction relating to Asbestos Personal Injury Claims and Demands, the Bankruptcy Code requires that Parent's Plan be accepted by at least 75 percent of holders of Asbestos Personal Injury Claims who vote to accept or reject the Parent's Plan, and by the FCR. However, if at least one voting Impaired Class votes to accept the Parent's Plan, then the Parent's Plan may be "crammed down" on non-voting Impaired Classes which are deemed to have rejected the Parent's Plan and voting Impaired Class which have rejected to the Parent's Plan, if certain requirements for cramdown are met and the Bankruptcy Court approves such cramdown.

The Parent believes that the voting requirements necessary to Confirm the Parent's Plan will be met, that the Parent's Plan will be accepted by the requisite numbers of holders of Claims in Impaired Class, and that the Section 524(g) Trust will be accepted by the requisite number of holders of Asbestos Personal Injury Claims and by the FCR, and that the Bankruptcy Court will approve a cramdown of Classes that have rejected the Parent's Plan. However, there is no guarantee that the voting thresholds with respect to Impaired Classes under the Parent's Plan and/or the Section 524(g) Trust will be reached. In addition, there is no guarantee that the Bankruptcy Court will approve a cramdown with respect to the Parent's Plan.

Even if all impaired Classes entitled to vote in fact vote in favor of the Parent's Plan and, with respect to any impaired Class deemed to have rejected the Parent's Plan, the requirements for "cramdown" are met, the Bankruptcy Court, which as a court of equity may exercise substantial discretion, may choose not to confirm the Parent's Plan. Section 1129 of the Bankruptcy Code requires, among other things, a showing that Confirmation of the Parent's Plan will not be followed by liquidation or the need for further financial reorganization of the Debtors, and that the value of distributions to dissenting holders of Claims and Interests may not be less than the value that such holders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. Although the Parent believes that the Parent's Plan satisfies all requirements necessary for Confirmation, there is no assurance that the Bankruptcy Court and the District Court will reach the same conclusion, or that the Confirmation, if challenged on appeal, will be affirmed.

In addition, any objection to the Parent's Plan also could prevent Confirmation of the Parent's Plan or delay such Confirmation for a significant period of time. Moreover, Article 10.1 of the Parent's Plan sets forth a number of conditions precedent to the effectiveness of the Parent's Plan. There can be no assurance that these conditions will be satisfied.

## 7.3 Risk Factors Related to Estimates and Assumptions.

As with any plan of reorganization or other financial transaction, there are certain risk factors that must be considered. All risk factors cannot be anticipated, some events will develop in ways that were not foreseen, and many or all of the assumptions that have been used in connection with this Disclosure Statement and the Parent's Plan will not be realized exactly as assumed. Some or all of such variations may be material. While efforts have been made to be reasonable in this regard, there can be no assurance that subsequent events will bear out the analyses set forth in this Disclosure Statement. Holders of Claims and Interests should be aware of some of the principal risks associated with the contemplated reorganization:

- There is a risk that one or more of the required conditions or obligations under the Parent's Plan will not occur, be satisfied or waived, as the case may be, resulting in the inability to confirm the Parent's Plan.
- The total amount of Allowed Claims may ultimately be materially in excess of the estimated amounts of such Claims assumed in the development of the Parent's Plan and in the valuation estimates provided above. The actual amount of all Allowed Claims in

any Class may differ significantly from the estimates provided in this Disclosure Statement.

- The financial information contained in this Disclosure Statement has been prepared by the Debtors and their advisors. As a result, the Parent is unable to warrant or represent that the financial information contained herein and attached hereto is without inaccuracies.

#### 7.4 Risk Factors That Could Negatively Affect the Debtors' Business.

The continued operation of Reorganized ASARCO's business as contemplated by the Parent's Plan is subject to a number of risks. Continued mining or metal production operations by Reorganized ASARCO, projected quantities of future metal production, anticipated production rates, operating efficiencies, costs and expenditures as well as projected demand or supply for the products of Reorganized ASARCO are subject to factors including the risks and uncertainties relating to general U.S. and international economic and political conditions, competition, the cyclical and volatile prices of copper, other commodities and supplies, including fuel and electricity, availability of materials, insurance coverage, equipment, required permits or approvals and financing, the occurrence of unusual weather or operating conditions, lower than expected ore grades, water and geological problems, the failure of equipment or processes to operate in accordance with specifications, failure to obtain financial assurance to meet closure and remediation obligations, labor relations, litigation and environmental risks. The results of operations of Reorganized ASARCO will be directly affected by metals prices on commodity exchanges, which can be volatile.

#### 7.5 Reorganized ASARCO May Not Be Able to Achieve Projected Financial Results.

Reorganized ASARCO may not be able to meet its projected financial results or achieve projected revenues and cash flows that have been assumed in projecting future business prospects. To the extent Reorganized ASARCO does not meet its projected financial results or achieve projected revenues and cash flows, Reorganized ASARCO may lack sufficient liquidity to continue operating as planned after the Effective Date, may be unable to service its debt obligations as they come due or may not be able to meet its operational needs. Any one of these failures may preclude Reorganized ASARCO from, among other things: (a) enhancing its current customer offerings; (b) taking advantage of future opportunities; (c) growing its business; or (d) responding to competitive pressures. Further, a failure of Reorganized ASARCO to meet its projected financial results or achieve projected revenues and cash flows could lead to cash flow and working capital constraints, which constraints may require Reorganized ASARCO to seek additional working capital. Reorganized ASARCO may not be able to obtain such working capital when required or may only be able to obtain additional working capital on unreasonable terms.

#### 7.6 Financial Projections and Other Forward Looking Statements Are Not Assured.

The Parent has evaluated the Debtors' 5-Year Plan (2009-2013) Financial Overview, as amended (the "5-Year Plan"), and Exhibit G provides commentary regarding the Parent's view of the Reorganized Debtors' financial situation.

#### 7.7 Risk that a the Debtors' Plan may be Confirmed Instead of the Parent's Plan.

If the Debtors' Plan complies with all of the requirements of the Bankruptcy Code, the Bankruptcy Court may confirm the Debtors' Plan instead of the Parent's Plan. However, the Parent believes that the Debtors' Plan does not comply with applicable requirements of the Bankruptcy Code as, among other objectionable provisions, it seeks to cramdown a section 524(g) trust on holders of Asbestos Personal Injury Claims and Demands if such holders vote to reject the Debtors' Plan. The Parent believes that such cramdown is not permitted by the Bankruptcy Code and that, in addition, the Debtors' Plan cannot be confirmed without the acceptance by the FCR.

#### 7.8 Risk Relating to the Collective Bargaining Agreement with the USW and Other Unions.

The Parent has not reached a collective bargaining agreement with the USW and other unions, thereby creating a risk that the Parent's Plan will not meet the applicable requirements of the special successorship clause of the Debtors' New CBA as currently in place.

7.9 Appointment of Different Asbestos Claims Trustees.

Not less than ten days prior to the commencement of the Confirmation Hearing, the Parent will designate the Persons who shall initially serve as the Section 524(g) Trustees. However, the Bankruptcy Court may decline the Parent's request and appoint one or more different Section 524(g) Trustees. If different Section 524(g) Trustees are appointed, it could materially impact the administration of the Section 524(g) Trust.

7.10 Appointment of Different Plan Administrator.

Not less than ten days prior to commencement of the Confirmation Hearing, the Parent shall designate the Entity that shall initially serve as the Plan Administrator. However, the Bankruptcy Court may decline the Parent's request and appoint a different Plan Administrator. If a different Plan Administrator is appointed, it could materially impact the administration of the Parent's Plan.

7.11 Claimants May Incur Taxes in Excess of Cash Received.

If a Claimant receives non-cash property pursuant to the Parent's Plan, and the Claimant's tax basis in its Claim is less than the fair market value of such non-cash property, then there may be a risk that the Claimant will not receive Cash under the Parent's Plan in an amount sufficient to pay the taxes incurred by the Claimant as a result of its distribution under the Parent's Plan. Moreover, there may be a risk that non-cash property received by a Claimant could generate income taxable to the Claimant in particular taxable years that exceeds the cash flow generated from such property for such taxable years.

SECTION 8  
ALTERNATIVES TO THE PARENT'S PLAN

If the Parent's Plan is not confirmed and consummated, alternatives to the Parent's Plan include an alternative plan of reorganization or liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

8.1 Alternative Plan of Reorganization.

If the Parent's Plan is not confirmed, the Parent, the Debtors or any other party could attempt to formulate a different plan of reorganization. The Parent and its advisors have explored various alternative scenarios and believe that the Parent's Plan enables the holders of Claims and Interests to realize the maximum recovery under the circumstances. The Parent believes that the Parent's Plan is the best plan of reorganization that can be proposed and that it serves the best interests of the Debtors and other parties in interest.

8.2 Debtors' Plan.

The Parent and the Debtors have each proposed their own plan of reorganization for ASARCO and some, or all, of the other Debtors. Only one plan of reorganization can be confirmed. If the plans of reorganization proposed by the Parent and the Debtors both meet all requirements for confirmation, the Bankruptcy Court will consider the preferences of Claim and Interest holders in determining which plan of reorganization to confirm. Because the Parent's Plan provides a greater amount of plan sponsor contribution and avoids inevitable, expensive and time consuming appeals of the Brownsville Litigation, the Parent believes that Parent's Plan is more favorable to holders of Claims and Interests and will ultimately be preferred by such holders.

8.3 Liquidation under Chapter 7.

If the Parent's Plan and the Debtor's Plan cannot be confirmed, the Debtors' Reorganization Cases may be converted to cases under chapter 7 of the Bankruptcy Code, pursuant to which a trustee or trustees would be appointed to liquidate the assets of the Debtors for distribution in accordance with the priorities established by the Bankruptcy Code.

The Debtors have prepared a liquidation analysis which is attached as **Exhibit E to the Debtors' Disclosure Statement**. The Parent disagrees with certain elements of the Debtors' liquidation analysis, and have prepared its own liquidation analysis, attached hereto as **Parent's DS Exhibit D**.

Based on either the Debtors' liquidation analysis or the Parent's liquidation analysis, creditors under the Parent's Plan will receive more than they would in a Chapter 7 liquidation of the Reorganizing Debtors.

SECTION 9  
CORPORATE GOVERNANCE, POST-CONFIRMATION MANAGEMENT, EMPLOYMENT-RELATED  
AGREEMENTS, AND CONTINUATION OF EMPLOYEE BENEFITS PLANS

9.1 Retention of Existing Interests.

On the Effective Date, the Parent will directly or indirectly own 100% of the outstanding New Equity Interests in Reorganized ASARCO.

9.2 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.

9.3 Limited Liability Company Agreement, Certificate of Incorporation and Bylaws.

The amended LLC Agreement and bylaws of Reorganized ASARCO shall be filed as soon as reasonably practicable after the Effective Date.

9.4 Management of Reorganized ASARCO.

Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Parent shall file, on or prior to the Confirmation Date, a document disclosing the identity and affiliations of any person proposed to serve on the initial board of directors of Reorganized ASARCO or as an officer of Reorganized ASARCO. To the extent any such person is an insider, the nature of any compensation payable to such person shall be disclosed at such time. Reorganized ASARCO shall have a five-person board of directors, each of them nominated by the Parent. Each director and officer shall serve from and after the Effective Date pursuant to the terms of the amended LLC Agreement, and applicable law.

9.5 Director and Executive Compensation.

Not less than ten days prior to the commencement of the Confirmation Hearing, the Parent shall file with the Bankruptcy Court a schedule of the identities, affiliations, and annual compensation of persons proposed to serve as executives, officers, and directors of Reorganized ASARCO as of the Effective Date.

SECTION 10  
CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PARENT'S PLAN

**IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, holders of Claims are hereby notified that: (a) any discussion of United States federal tax issues in this document is not intended or written to be relied upon, and cannot be relied upon, by holders of Claims, for the purpose of avoiding penalties that may be imposed on such holders of Claims under the Internal Revenue Code; (b) such discussion is written in connection with the promotion or marketing of the transactions or matters addressed herein; and (c) holders of Claims should seek advice based on their particular circumstances from an independent tax advisor.**

10.1 General.

Set forth below is a summary of certain federal income tax consequences of the consummation of the Parent's Plan as provided below. The summary is based on the Internal Revenue Code, final, temporary and proposed Treasury Regulations promulgated thereunder, administrative pronouncements or practices, and judicial decisions, all as of the date of the Parent's Plan. Future legislative, judicial, or administrative modifications, revocations, or interpretations, which may or may not be retroactive, may result in federal income tax consequences significantly different from those discussed herein. This summary is not binding on the IRS or United States courts, and no assurance can be given that the conclusions reached in this summary will not be challenged by the IRS or will be sustained by a United States court if so challenged. In addition, the Parent has not requested, and does not intend to request, a ruling from the IRS regarding any of the federal income tax consequences of the implementation of the Parent's Plan.

This summary does not address the federal income tax consequences to certain categories of holders of Claims subject to special rules, including holders of Claims that are (a) banks, financial institutions, or insurance companies, (b) real estate investment trusts, cooperatives, regulated investment companies, mutual funds, or small business investment companies, (c) brokers or dealers in securities, (d) tax-exempt organizations, (e) investors in pass-through entities and such entities themselves, and (f) foreign taxpayers. Furthermore, this summary is limited to United States federal income tax consequences and does not discuss state, local or foreign tax consequences or federal estate or gift tax consequences.

This summary is for general information purposes only and does not purport to be a complete analysis or listing of all potential federal income tax consequences that may apply to holders of Claims as a result of the implementation of the Parent's Plan. In addition, this summary does not take into account the individual facts and circumstances of particular holders of Claims that may affect the federal income tax consequences of the implementation of the Parent's Plan to such holders. Accordingly, this summary is not intended to be, and should not be construed as, legal or federal income tax advice. Holders of Claims should consult their own tax advisors regarding the federal, state, local, and foreign tax consequences of the Parent's Plan.

10.2 Federal Income Tax Classification of Section 524(g) Trust and Disputed Claims Reserve.

The federal income tax consequences of the Parent's Plan to the Debtors and Claimants will depend to a large degree on the treatment of any trusts formed in connection with the resolution of Asbestos Personal Injury Claims and Demands and Environmental Trust Claims, as well as the Disputed Claims Reserve.

(a) Classification of the Section 524(g) Trust.

The Treasury regulations promulgated under section 468B of the Internal Revenue Code provide that a fund, account, or trust will be a qualified settlement fund if three (3) conditions are met. First, the fund, account, or trust must be established pursuant to an order of, or be approved by, a government authority, including a court, and must be subject to the continuing jurisdiction of that government authority. Second, the fund, account, or trust must be established to resolve or satisfy one or more contested or uncontested Claims that have resulted or may result from an event or related series of events that has occurred and that has given rise to at least one Claim asserting liability arising out of, among other things, a tort, violation of law, or CERCLA claim. Third, the fund, account, or trust must be a trust under applicable state law or have its assets physically segregated from the other assets of the transferor and persons related to the transferor.

The Section 524(g) Trust has been structured so as to comply with the foregoing requirements to the maximum extent possible. However, the Debtors have not, and do not intend to, seek a ruling from the IRS or an opinion of counsel regarding the status of the Section 524(g) Trust as a qualified settlement fund. Accordingly, there can be no assurance that the IRS will not take a contrary position. Except as otherwise specified, the remainder of the tax considerations discussion assumes that the Section 524(g) Trust will be treated as a qualified settlement fund.

Assuming that the Section 524(g) Trust qualifies for qualified settlement fund treatment, the trust will be treated as a separate taxable entity and will generally be subject to federal income tax on their modified taxable income at the maximum rate applicable to trusts, which is currently thirty-five percent (35%). In determining the modified taxable income of the Section 524(g) Trust, (1) amounts transferred by the Debtors to such trust (other than payments in compensation for late or delayed transfers, dividends on stock of a Debtor or related person or interest on the debt of a Debtor or related person) pursuant to the Parent's Plan will generally be excluded from the trust's income; (2) any sale, exchange or distribution of property by such trust will generally be treated as a sale and result in the recognition of gain or loss in an amount equal to the difference between the fair market value of the property on the date of such disposition and the adjusted tax basis of the trust in such property; and (3) administrative costs (including state and local taxes) incurred by such trust that would be deductible in determining the taxable income of a corporation will generally be deductible by the trust. The adjusted tax basis of the Section 524(g) Trust in property received from the Debtors (or from an insurer on behalf of the Debtors) pursuant to the Parent's Plan will generally be the fair market value of such property at the time of such transfer.

(b) Classification of Disputed Claims Reserve.

Treasury regulations promulgated under section 468B of the Internal Revenue Code provide that an escrow account, trust, or fund is a disputed ownership fund if four (4) conditions are met. First, the escrow account, trust, or fund is established to hold money or property subject to conflicting claims of ownership. Second, the escrow account, trust, or fund is subject to the continuing jurisdiction of a court. Third, the escrow account, trust, or fund requires the approval of the court to pay or distribute money or property to, or on behalf of, a claimant, transferor, or transferor-claimant. Fourth, the escrow account, trust, or fund is not a qualified settlement fund, a bankruptcy estate (or part thereof) resulting from the commencement of a case under title 11 of the United States Code, or subject to certain exceptions, a liquidating trust.

The Disputed Claims Reserve has been structured so as to comply with the foregoing requirements to the maximum extent possible, and the Parent's Plan Administrator will treat the Disputed Claims Reserve as a disputed ownership fund within the meaning of Treasury Regulation section 1.468B-9(b)(1). However, the Parent has not, and does not intend to, seek a ruling from the IRS or an opinion of counsel regarding the status of the Disputed Claims Reserve as a disputed ownership fund. Accordingly, there can be no assurance that the IRS will not take a contrary position.

Assuming that the Disputed Claims Reserve qualifies for disputed ownership fund treatment, the Disputed Claims Reserve will be subject to U.S. federal income tax as if it were a qualified settlement fund, as discussed above, provided all the assets transferred to the Disputed Claims Reserve are passive investment assets, such as cash or cash equivalents, stock, and debt obligations. If the Disputed Claims Reserve is not taxable as a qualified settlement fund, it will be subject to U.S. federal income tax as a corporation.

### 10.3 Federal Income Tax Consequences to Debtors.

(a) Cancellation of Indebtedness.

Under the Internal Revenue Code, a taxpayer generally must include in gross income the amount of any cancellation of indebtedness income ("COD Income") realized during the taxable year. Section 108 of the Internal Revenue Code provides that a taxpayer does not realize COD Income from cancellation of indebtedness to the extent that payment of such indebtedness would have given rise to an income tax deduction. Section 108 of the Internal Revenue Code provides further that COD Income may be excluded from gross income to the extent that the taxpayer is insolvent or is in bankruptcy, but such excluded amount must be applied to reduce certain tax attributes of the taxpayer.

It is expected that the satisfaction of many of the Claims pursuant to the Parent's Plan will not result in significant COD Income to the Debtors because either (i) such Claims are being Paid in Full or (ii) payment of such Claims would have given rise to a deduction for the Debtors. However, the Debtors may recognize COD Income with respect to Bondholder Claims.

(b) Transfers of Assets other than Cash to Trusts.

Assuming that the Section 524(g) Trust qualifies as a qualified settlement fund (as discussed above), the Debtors will be treated as having made a taxable disposition of the assets transferred to each such trust. As result, the Debtors will generally recognize gain or loss on the transfer of any such assets other than cash in an amount equal to the difference between (1) the fair market value of the assets transferred and (2) the adjusted tax basis in the transferred assets.

(c) Deductibility of Amounts Transferred in Satisfaction of Asbestos and Certain Environmental Claims.

The Debtors should be entitled to a deduction for all or substantially all of the amount of cash and the fair market value of other assets paid in satisfaction of the Class 4 Asbestos Personal Injury Claims, and for a substantial portion of the amounts paid in satisfaction of the Environmental Claims in Classes 6 through 8, once the usual requirements imposed on accrual basis taxpayers with respect to the satisfaction of liabilities are met. Assuming that the Section 524(g) Trust qualifies as a qualified settlement fund (as discussed above), these requirements should generally be met at the time cash and/or assets (other than certain obligations of Reorganized ASARCO or related parties) are transferred to the Section 524(g) Trust.

The Debtors should be entitled to a deduction for all or substantially all amounts paid by the Environmental Liquidation Trust with respect to Remedial Actions and other expenses and for all or substantially all of the amount of cash and the fair market value of Designated Properties transferred to the Environmental Custodial Trust.

The Debtors will not be allowed a deduction for payments to the Trusts to the extent that such payments represent insurance proceeds received by the Debtors. In such case, payments of amounts representing insurance proceeds should not cause recognition of income to the Debtors. Alternatively, if the Debtors' transfer of amounts representing insurance proceeds were to cause recognition of income by the Debtors, the Debtors should be entitled to a corresponding deduction for the payment of such amounts to the trusts.

Similarly, the Debtors will not be allowed a deduction for payments to the Trusts to the extent the Debtors have a right to reimbursement (with a positive fair market value) with respect to such payments from any third party.

Any deductions for payments made to the Trusts first would reduce or eliminate the Debtors' federal taxable income for the taxable year in which the payments are made. To the extent these deductions created a taxable loss for such year, the loss would constitute a net operating loss.

(d) Payment of Tax

Reorganized ASARCO will pay, as Administrative Claims, post-petition income tax liability pursuant to the terms of a tax sharing agreement that Reorganized Asarco will enter into with Parent.

10.4 Federal Income Tax Consequences to Holders of Claims.

The tax consequences of the Parent's Plan to a holder of a Claim will depend, in part, on the type of consideration the holder received in exchange for the Claim, whether the holder reports income on the accrual or cash-basis method, and whether the holder receives distributions under the Parent's Plan in more than one taxable year.

In general, a holder of a Claim that receives cash or property in satisfaction of its Claim in a single taxable year will recognize (a) ordinary interest income to the extent such payments are attributable to interest that has accrued but has not been previously taken into income by the holder with respect to the Claim and (b) gain or loss in an amount equal to the difference between (1) the amount of cash and the fair market value of other property received by such holder in satisfaction of such Claim (other than amounts attributable to accrued interest, which is taxed as described above) and (2) the holder's adjusted tax basis in such Claim. This treatment is expected to apply to holders of Claims in all Classes (subject to the discussions below on Reinstatement and tax treatment of recoveries on personal injury Claims).

Holders of Class 4 Asbestos Personal Injury Claims and Demands will receive interests in the Section 524(g) Trust. Holders of Class 4 Asbestos Personal Injury Claims and Demands shall not be treated as receiving property as a result of their receipt of interests in the Section 524(g) Trust. Instead, such holders shall be treated as receiving cash



or property when they receive distributions from either such trust. All distributions to holders of Claims will be subject to any applicable withholding and backup withholding.

Payments under the Parent's Plan to Claimants with respect to damages on account of personal physical injuries or physical sickness, including payments received from a trust pursuant to the Parent's Plan, will not be includable in such Claimants' gross income pursuant to section 104 of the Internal Revenue Code. However, to the extent payments under the Parent's Plan to Claimants are attributable to medical expense deductions allowed under section 213 of the Internal Revenue Code for a prior taxable year, such payments will be taxable as ordinary income to the recipient. Payments under the Parent's Plan to Claimants representing punitive damages or interest will generally be taxable as ordinary income to the recipient. Payments under the Parent's Plan to a Claimant attributable to attorneys' fees of such Claimant may be taxable as ordinary income to the Claimant depending upon the unique circumstances of such Claimant. If taxable, such a Claimant may also be entitled to deduct such payments as an expense (subject to certain limitations). Some portion of the amounts received by holders of Class 4 Asbestos Personal Injury Claims and Demands may qualify for the treatment described in this paragraph.

Under the Parent's Plan, some or all Class 2 Secured Claims and, at the Parent's election, some or all Class 3 Bondholder Claims may be Reinstated. The potential Reinstatement of the Bondholder Claims could constitute a "significant modification" for federal income tax purposes. If Reinstatement of Class 3 Bondholder Claims results in a significant modification of those Claims, each Bondholder could have currently taxable gain to the extent that the "issue price" of the Reinstated Bond exceeds the Bondholder's tax basis in the Bond. The issue price would generally equal the Reinstated Bond's face amount (unless the Bonds or the Reinstated Bonds are traded on an established securities market, within the meaning of the tax law, in which case the issue price would be the fair market value of the Bonds or the Reinstated Bonds, as the case may be). If the Bonds or Reinstated Bonds are traded on an established securities market, the Reinstated Bonds may have original issue discount in an amount equal to the amount by which the face amount of the Reinstated Bonds exceeds the issue price. A Bondholder would be required to include, in such Bondholder's taxable income, any such original issue discount on the Reinstated Bonds over the life of the Reinstated Bonds on a constant yield basis without regard to whether cash is received. If a holder of a Secured Claim is Reinstated, and such Secured Claim is treated as debt for federal income tax purposes, then similar rules would apply to such Reinstatement.

Where gain or loss is recognized by a holder of Claims under the foregoing rules, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the holder, whether the Claim constitutes a capital asset in the hands of the holder and how long it has been held, whether the Claim was acquired at a market discount and whether and to what extent the holder had previously claimed a bad debt deduction.

Holders of Claims are strongly advised to consult their tax advisors with respect to the tax treatment under the Parent's Plan of their particular Claim.

#### 10.5 Information Reporting: Backup Withholding Tax.

Payments made pursuant to the Parent's Plan will generally be subject to applicable federal income tax information reporting and withholding requirements. The Internal Revenue Code imposes backup withholding tax on certain payments, including payments of interest, if a taxpayer (a) fails to furnish its correct taxpayer identification number (generally on IRS Form W-9), (b) furnishes an incorrect taxpayer identification number, (c) is notified by the IRS that it has previously failed to report properly items subject to backup withholding tax, or (d) fails to certify, under penalty of perjury, that such taxpayer has furnished its correct taxpayer identification number and that the IRS has not notified such taxpayer that it is subject to backup withholding tax. However, taxpayers that are corporations generally are excluded from these information reporting and backup withholding tax rules provided that evidence of such corporate status is furnished to the payor. Backup withholding is not an additional federal income tax. Any amounts withheld under the backup withholding tax rules will be allowed as a credit against a taxpayer's federal income tax liability, if any, or will be refunded to the extent the amounts withheld exceed the taxpayer's actual tax liability, if such taxpayer furnishes required information to the IRS. A taxpayer that does not provide a correct taxpayer identification number may be subject to penalties imposed by the IRS. Each taxpayer should consult its own tax advisor regarding the information reporting and backup withholding tax rules.

10.6 Importance of Obtaining Professional Tax Assistance.

The foregoing discussion is intended only as a summary of certain federal income tax consequences of the Parent's Plan, and is not a substitute for careful tax planning with a tax professional. The tax consequences are in many cases uncertain and may vary depending on the individual circumstances of a holder of Claims. Accordingly, holders of Claims and Demands are urged to consult with their tax advisors about the federal, state, local, and foreign tax consequences of the Parent's Plan.

SECTION 11  
FINANCIAL INFORMATION

11.1 General.

An analysis of the Debtors' financial condition appears in the historic unaudited financial information for the fiscal years 2005, 2006, 2007 and 2008 (through December 31, 2008), attached to the Debtors' Disclosure Statement as **Exhibit D** thereto.

The Debtors are required to file monthly operating reports with the Bankruptcy Court. Such financial information is on file with the clerk of the Bankruptcy Court and publicly available for review on the Bankruptcy Court's public website: [www.ecf.txsb.uscourts.gov](http://www.ecf.txsb.uscourts.gov), or at the Debtors' restructuring website: [www.asarcoreorg.com](http://www.asarcoreorg.com).

SECTION 12  
SOURCES OF INFORMATION PROVIDED AND THE ACCOUNTING METHOD USED

12.1 Sources of Information.

The financial and claims-related information set forth in this Disclosure Statement and the attached exhibits was provided by the Debtors and their respective advisors, except as otherwise indicated.

12.2 Accounting Method.

The Debtors have informed us that their books and records (a) present fairly in all material respects the consolidated financial position of ASARCO as of the respective dates thereof, and the consolidated results of operations of ASARCO for the periods covered thereby and (b) have been prepared in all material respects in accordance with generally accepted accounting principles applied on a basis consistent with the past practices of ASARCO during the pendency of the Reorganization Cases, in each case, subject to (i) the absence of footnotes thereto, (ii) in the case of interim financial statements, the absence of normal year-end adjustments, and (iii) audit adjustments resulting from the independent accountants' audit, review and finalization of the ASARCO's financial statements for the years ended December 31, 2005, 2006, 2007, and 2008.

SECTION 13  
REQUIREMENTS FOR CONFIRMATION OF THE PARENT'S PLAN AND VOTING PROCEDURES

13.1 Acceptance or Rejection of the Parent's Plan.

Under the Bankruptcy Code, only classes of claims and interests that are impaired under a plan of reorganization can vote to accept or reject that plan. Under section 1124 of the Bankruptcy Code, a class of claims or interests is impaired under a plan unless, with respect to each claim or interest in that class, that plan:

- leaves unaltered the legal, equitable, and contractual rights to which that claim or interest entitles its holder; or

- notwithstanding any contractual provision or applicable law that entitles the holder of that claim or interest to demand or receive accelerated payment of that claim or interest after the occurrence of a default:
  - cures that default, if other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code;
  - reinstates the maturity of that claim or interest as it existed prior to that default; or
  - compensates the holder of that claim or interest for any damages incurred as a result of that holder's reasonable reliance on that contractual provision or applicable law; and
- does not otherwise alter the legal, equitable, or contractual rights to which that claim or interest entitles its holder.

[Voting to Come]

### 13.2 Confirmation Hearing.

Section 1128(a) of the Bankruptcy Code requires the court, after notice, to hold a hearing on confirmation of a proposed plan. The Confirmation Hearing has been scheduled to begin on July 15, 2009 at 9:00 am before the Honorable Richard S. Schmidt, United States Bankruptcy Judge for the Southern District of Texas, in his courtroom located at 1133 N. Shoreline Blvd., Second Floor, Corpus Christi, Texas. In order to obtain the protections of section 524(g) of the Bankruptcy Code, the Confirmation Order must be issued or affirmed by the District Court. Thus, the Bankruptcy Court and the District Court may jointly conduct the Confirmation Hearing. Alternatively, if solely the Bankruptcy Court conducts the Confirmation Hearing and enters the Confirmation Order, the Parent shall ask the District Court to affirm the Confirmation Order. The Confirmation Hearing may be adjourned from time to time without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any subsequent adjourned Confirmation Hearing.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan. Unless otherwise directed or permitted by the Bankruptcy Court, any objection to Confirmation of the Parent's Plan must (a) be in writing, (b) conform to the Bankruptcy Rules, (c) set forth the name of the objecting party, (d) identify the nature of Claims or Interests held or asserted by the objector against the Debtors' Estates or property, (e) state the basis for the objection and the specific grounds therefore, and (f) be filed with the clerk of the Bankruptcy Court, together with proof of service, and served upon each of the following so as to be received in the offices of each such Persons no later than July \_\_\_, 2009 at \_\_\_, prevailing Central Time: (1) Robert Jay Moore, 601 South Figueroa Street, 30th Floor, Los Angeles, CA 90017; (2) Jack L. Kinzie, Baker Botts L.L.P., 2001 Ross Avenue, Dallas, Texas 75201-2980; (3) Tony M. Davis, Baker Botts L.L.P., One Shell Plaza, 910 Louisiana, Houston, Texas 77002-4995; (4) Shelby A. Jordan, Jordan, Hyden, Womble, Culbreth, & Holzer, P.C., Suite 900, Bank of America, 500 North Shoreline, Corpus Christi, Texas 78471; (5) James C. McCarroll, Reed Smith LLP, 599 Lexington Avenue, 29th Floor, New York, NY 10022; (6) Paul M. Singer, Reed Smith LLP, 435 Sixth Avenue, Pittsburgh, PA 15219; (7) Sander L. Esserman, Stutzman, Bromberg, Esserman & Plifka, 2323 Bryan Street, Suite 2200, Dallas, Texas 75201; (8) John H. Tate, II, Oppenheimer, Blend, Harrison & Tate, Inc., 711 Navarro, Sixth Floor, San Antonio, Texas 78205; (9) David L. Dain and Alan S. Tenenbaum, United States Department of Justice, Environmental Enforcement Section, 601 D Street NW, Washington, DC 20004; (10) Douglas P. Bartner, Shearman & Sterling LLP, 599 Lexington Avenue, New York, New York 10022; and (11) Charles R. Sterbach, Office of the United States Trustee, 606 N. Carancahua Street, Suite 1107, Corpus Christi, Texas 78476.

### 13.3 Requirements for Confirmation.

(a) Consensual Confirmation Under Section 1129(a) of the Bankruptcy Code.

At the Confirmation Hearing, the Bankruptcy Court will be asked to determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied. These requirements include, among others, judicial findings that:

- the Parent's Plan complies with applicable provisions of the Bankruptcy Code;
- the Parent has complied with the applicable provisions of the Bankruptcy Code;
- the Parent's Plan has been proposed in good faith and not by any means forbidden by law;
- any payment made or to be made by the Parent, the Debtors or by any Person acquiring property under the Parent's Plan for services, costs, or expenses in or in connection with the Reorganization Case, or in connection with the Parent's Plan and incident to the Reorganization Case, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable;
- the Parent has disclosed the identity and affiliations of any individual proposed to serve as a director or an officer of Reorganized ASARCO after Confirmation of the Parent's Plan and that the appointment to, or continuance in, such office by such individual is consistent with the interests of holders of Claims and Interests and with public policy;
- the Parent has disclosed the identity of any insider that will be employed or retained by Reorganized ASARCO, and the nature of any compensation for such insider;
- each Class of Claims or Interests has either accepted the Parent's Plan or is not impaired under the Parent's Plan;
- except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Parent's Plan provides that Administrative Claims and Priority Claims will be paid in full on the Effective Date and that Priority Tax Claims will be either paid in full on the Effective Date or will receive on account of such Claims deferred cash payments, over a period not exceeding six (6) years after the date of assessment of such Claims, of a value, as of the Effective Date, equal to the Allowed Amount of such Claims;
- that the Parent's Plan is feasible; that is, Confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of Reorganized ASARCO, unless such liquidation or reorganization is proposed in the Parent's Plan;
- all fees payable under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Parent's Plan provides for the payment of all such fees on the Effective Date; and
- the Parent's Plan provides for the continuation after the Effective Date of payment of all retiree benefits, as that term is defined in section 1114 of the Bankruptcy Code, at the level established pursuant to section 1114(e)(1)(B) or (g) of the Bankruptcy Code, at any time prior to Confirmation of the Parent's Plan, for the duration of the period the Reorganizing Debtors have obligated themselves to provide such benefits.

The Parent believes that the Parent's Plan satisfies all applicable requirements of section 1129(a) of the Bankruptcy Code.

(b) Best Interests Test. Under the best interests test, a Parent's Plan is confirmable if, with respect to each impaired Class of Claims or Interests, each holder of a Claim or Interest in that Class either:

- has accepted the Parent's Plan; or
- will receive or retain under the Parent's Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.
- The Parent believes that, under the Parent's Plan, each holder of a Claim or Interest will receive or retain under the Parent's Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

(c) Feasibility of the Parent's Plan. In order for the Parent's Plan to be confirmed, the Bankruptcy Court also must determine that the Parent's Plan is feasible – that is, that the need for further reorganization or a subsequent liquidation of ASARCO is not likely to result following Confirmation of the Parent's Plan. In determining whether a plan of reorganization is feasible, a court will consider:

- the adequacy of the proposed capital structure of the reorganized entity;
- the earning power of that entity;
- the overall economic conditions in which that entity will operate;
- the capability of its management;
- the continuity of its management; and
- any other factors the court deems relevant to the successful operation of the reorganized entity to perform the provisions of the plan of reorganization.

(d) Requirements for Injunction Under Section 524(g) of the Bankruptcy Code.

Section 524(g) of the Bankruptcy Code authorizes the court to enjoin Entities from taking action to collect, recover, or receive payment or recovery with respect to any Asbestos Personal Injury Claim that is to be paid in whole or in part by a trust created by a plan of reorganization that satisfies the requirements of the Bankruptcy Code. The injunction also may bar any action based on such Claims or Demands against the Reorganizing Debtors that are directed at third parties. To the extent the Section 524(g) Treatment is elected by 75% of the holders of Asbestos Personal Injury Claims that vote and the FCR, the injunction described above will be sought.

To obtain the injunction, a trust must be established that:

- assumes the Reorganizing Debtor's asbestos liabilities;
- is funded in whole or in part by securities of one or more of the Reorganizing Debtors and with an obligation by one or more Reorganizing Debtor to make future payments;

- owns or is entitled to a majority of the voting shares of one or more Reorganizing Debtor, a Reorganizing Debtor's parent corporation, or subsidiaries that are also Debtors; and
- uses its assets or income to satisfy Claims and Demands.

As a requirement before issuing an injunction under section 524(g) of the Bankruptcy Code, the court must determine that

- the Reorganizing Debtors are likely to be subject to substantial Demands for payments arising out of the same or similar conduct or events that give rise to the Asbestos Personal Injury Claims that are addressed by the injunction;
- the actual amounts, numbers and timing of such Demands cannot be determined;
- pursuit of such Demands outside the procedures prescribed by the plan is likely to threaten the Plan's purpose to deal equitably with Claims and Demands; and
- the Section 524(g) Trust will operate through mechanisms such as structural, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of Claims and Demands, or other comparable mechanisms that provide reasonable assurance that the Section 524(g) Trust will value, and be in a financial position to pay, Claims and Demands that involve similar Claims in substantially the same manner.

The court also must ensure that the terms of any proposed section 524(g) injunction are set out in the Parent's Plan and Disclosure Statement and that 75 percent of the holders of Asbestos Personal Injury Claims who vote on the Parent's Plan elect to approve it.

The Injunctions will be valid and enforceable as to Demands made after the Parent's Plan is confirmed only if a legal representative is appointed to protect the rights of Persons that might subsequently assert Demands and if the court determines that applying the Injunctions to future claimants in favor of the beneficiaries of the Injunction is fair and equitable with respect to the Persons that might subsequently assert such Demands, in light of the benefits provided, or to be provided, to the trust on behalf of the Reorganizing Debtors or another beneficiary of the Injunctions.

The Confirmation Order must be issued or affirmed by the District Court that has jurisdiction over the Reorganization Cases. After the expiration of the time for appeal of the order, the Injunctions become valid and enforceable.

The Parent believes that it will be able to satisfy all the requirements of section 524(g), so long as the requisite number of holders of Asbestos Personal Injury Claims and the FCR elect the Section 524(g) Treatment.

#### 13.4 Conditions to Effectiveness.

In addition to the requirements for confirmation of the Parent's Plan, the terms of the Parent's Plan provide that the Parent's Plan may not become effective unless, among other things, (a) the Bankruptcy Court has approved the Disclosure Statement, (b) the Confirmation Order has become a Final Order, (c) the Plan Documents necessary or appropriate to implement the Parent's Plan have been executed, delivered, and filed where applicable, and (d) the Confirmation Order contains the findings of fact and conclusions of law set forth in Article 9.1(b) of the Parent's Plan. See Article 9.1 of the Parent's Plan for a more complete discussion of the conditions to effectiveness of the Parent's Plan.

The Parent, in its sole discretion, may waive any condition to effectiveness in Article 9.1 of the Parent's 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 U.S. Trustee, the Debtors, the Committees, the FCR, and the DOJ; provided that the Parent may not waive any condition to effectiveness in Articles 9.1(c)(1), 9.1(c)(3), or 9.1(f) without the consent of the Asbestos Representatives.

13.5 Effect of Confirmation and Effectiveness.

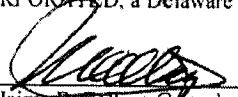
If the Parent's Plan is confirmed and becomes effective, the Parent's Plan will be binding upon the Reorganizing Debtors, all holders of Claims and Interests, and all other parties in interest.

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The undersigned have executed this Third Amended Disclosure Statement as of the 15th day of May, 2009.

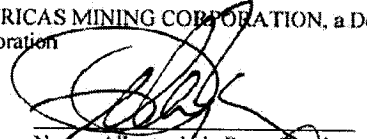
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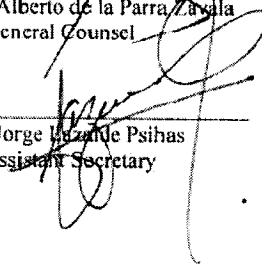
ASARCO INCORPORATED, a Delaware corporation

By:   
Name: Jaime P. 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



**PARENT'S DS EXHIBIT A**

**UNIFORM GLOSSARY OF DEFINED TERMS FOR PLAN DOCUMENTS**

## **Uniform Glossary of Defined Terms for Plan Documents**

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

### **Glossary of Terms**

1. "2005 Subsidiary Debtors" means the Subsidiary Debtors (other than the Asbestos Subsidiary Debtors) that filed bankruptcy cases in 2005, including, without limitation, ASARCO Consulting, Inc.; Encycle, Inc.; ALC, Inc.; American Smelting and Refining Company; AR Mexican Explorations Inc.; Asarco Master, Inc.; Asarco Oil and Gas Company, Inc.; Bridgeview Management Company, Inc.; Covington Land Company; and Government Gulch Mining Company, Limited.
2. "2006 Subsidiary Debtors" means the Subsidiary Debtors that filed bankruptcy cases in 2006, including, without limitation, Southern Peru Holdings, LLC; AR Sacaton, LLC; and ASARCO Exploration Company, Inc.
3. "2008 Subsidiary Debtors" means the Subsidiary Debtors that filed bankruptcy cases in 2008, including, without limitation, Green Hill Cleveland Mining Company; Alta Mining and Development Company; Blackhawk Mining and Development Company, Limited; Peru Mining Exploration and Development Company; Tulipan Company, Inc.; and Wyoming Mining and Milling Company.
4. "Acceptable Letter of Credit" means, with respect to the Parent's Plan, an unconditional, irrevocable letter of credit issued by a major United States money center bank in a form approved by the Bankruptcy Court, which Acceptable Letter of Credit shall not be drawn until such time as Cash is needed to satisfy Allowed Claims.
5. "Acquisition Proposal" shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means any proposal or offer for a merger, recapitalization, share exchange, debt-for-equity exchange, distribution of securities for the benefit of the stakeholders of ASARCO, consolidation, or similar transaction involving a sale or purchase (directly or through a proposed investment in equity securities, debt securities, or claims of creditors) of all or substantially all of the

Sold Assets, or all or substantially all of the equity securities of ASARCO or of the Non-Debtor Sellers, other than the transactions contemplated by the terms of the New Plan Sponsor PSA. For the avoidance of doubt, an Acquisition Proposal does not include a proposal or offer for a Stand-Alone Plan.

6. “ADEQ” means the Arizona Department of Environmental Quality.
7. “Adjustment Amount” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means, as of the date that a binding determination of the Closing Accounts Amount (as such term is defined in Exhibit E to the New Plan Sponsor PSA) has been made in accordance with section 4.4 of the New Plan Sponsor PSA, the product of (a) 1.6 multiplied by (b) Agreed Working Capital minus Closing Accounts Amount. In all cases, the Adjustment Amount shall be expressed as a positive number.
8. “Administrative Claim” means any Claim against any of the Debtors for the payment of an Administrative Expense.
9. “Administrative Expense” means (a) any cost or expense of administration of the Reorganization Cases of any of the Debtors incurred before the Effective Date and allowable under section 503(b) of the Bankruptcy Code and entitled to priority under section 507(a)(1) of the Bankruptcy Code including, without limitation, (i) any actual and necessary postpetition cost or expense of preserving the Estates or operating the businesses of any of the Debtors, (ii) any payment required to cure a default on an assumed executory contract or unexpired lease, (iii) any postpetition cost, indebtedness, or contractual obligation duly and validly incurred or assumed by any of the Debtors in the ordinary course of its business, and (iv) compensation or reimbursement of expenses of professionals to the extent allowed by the Bankruptcy Court under section 330(a) or 331 of the Bankruptcy Code; (b) any fee or charge assessed against the Estates under 28 U.S.C. § 1930; and (c) the Pre-524(g) Indemnity, which shall constitute an Allowed Administrative Claim in accordance with the terms and conditions of such agreement.
10. “Affiliate” 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 the 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).
11. “Allowed” means:
  - (i) **Under the Debtors’ Plan**: a Claim that is not a Disputed Claim and, with respect to any other Claim (other than an Unsecured Asbestos Personal Injury Claim) or Interest, (a) any Claim or Interest, proof of which was timely filed with the Bankruptcy Court or the Claims Agent, or, by order of the Bankruptcy Court, was not required to be filed, (b) any Claim or Interest that has been, or hereafter is, listed in the Schedules as

liquidated in amount and not disputed or contingent, provided that any discrepancy between the Claim as listed in the Schedules and a Proof of Claim filed in connection with such Claim shall be resolved pursuant to the procedures set forth in Article XIV of the Debtors' Plan, and, in (a) and (b) above, as to which (i) during the period prior to the deadline for filing objections to Proofs of Claim as set forth in Article 14.2 of the Debtors' Plan, the Claim or Interest has been allowed by a Final Order or in a settlement approved by the Confirmation Order (but only to the extent so allowed), or (ii) after the deadline for filing objections to Proofs of Claim, either no objection to the allowance thereof was filed prior to the Claims objection deadline or the Claim or Interest has been allowed by a Final Order or in a settlement approved by the Confirmation Order (but only to the extent so allowed). "Allowed" means, with respect to any Demand or Unsecured Asbestos Personal Injury Claim, any Demand or Unsecured Asbestos Personal Injury Claim that is liquidated and allowed pursuant to the Asbestos TDP. "Allowed" also includes (a) all Claims allowed by the Bankruptcy Court by approval of: (i) the Miscellaneous Federal and State Environmental Settlement Agreement, (ii) the Residual Environmental Settlement Agreement, (iii) the Arizona NRD Settlement Agreement, (iv) the Hayden Past Cost Settlement Agreement, and (v) the Mission Mine Settlement Agreement; and (b) all Previously Settled Environmental Claims.

(ii) **Under the Parent's Plan:** with respect to any Claim or Demand (other than a Disputed Claim or an Asbestos Personal Injury Claim or Demand) or Interest, (a) any Claim or Interest, proof of which was timely filed with the Bankruptcy Court or the Claims Agent, or, by order of the Bankruptcy Court, was not required to be filed, (b) any Claim or Interest that has been, or hereafter is, listed in the Schedules as liquidated in amount and not disputed or contingent, and, in (a) and (b) above, as to which (i) during the period prior to the deadline for filing objections to Proofs of Claim as set forth in Article 14.2 of the Parent's Plan, the Claim or Interest has been allowed by a Final Order or in a settlement approved by the Confirmation Order (but only to the extent so allowed), or (ii) after the deadline for filing objections to Proofs of Claim, either no objection to the allowance thereof was filed prior to the Claims objection deadline or the Claim or Interest has been allowed by a Final Order or in a settlement approved by the Confirmation Order (but only to the extent so allowed). With respect to any Asbestos Personal Injury Claim or Demand, "Allowed" means any Asbestos Personal Injury Claim or Demand that is liquidated and allowed pursuant to the Section 524(g) Trust Distribution Procedures.

12. "Allowed Amount" of any Claim means the amount at which that Claim is Allowed (excluding any postpetition interest).
13. "Alter Ego Theories" means theories asserting that a Debtor should be held liable for the Claims and Demands against one or more other Debtors on the ground that it was their alter ego, including, without limitation, denuding-the-corporation, single-business-enterprise, corporate trust funds, breach of fiduciary duty or conspiracy, theories that a Debtor was the mere instrumentality, agent, or alter ego of another Debtor, or that the corporate veil should be pierced, or that as a result of domination and control over any of the Debtors, directly or indirectly, another Debtor should be liable for Asbestos Personal Injury Claims and Demands or any other Claims and Demands that have origins in acts or

omissions of any of the other Debtors, or any other theories of direct or indirect liability for the conduct of, Claims against, or Demands on, any of the other Debtors to the extent that such alleged liability arises by reason of any of the other circumstances enumerated in section 524(g)(4)(A)(ii) of the Bankruptcy Code.

14. “AMC” means Americas Mining Corporation, ASARCO’s indirect parent company.
15. “Ancillary Agreements” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the Assignment and Assumption Agreement, the Bill of Sale, the Transition Services Agreement, the Patent Assignment, the Trademark Assignment, the Deeds, the Leasehold Deeds, the Mortgages, the Security Agreement and the other documents to be delivered in connection therewith, Plan Sponsor Promissory Note, and the Assignment and Assumption of Ground Lease Agreement (as each such term is defined in the New Plan Sponsor PSA).
16. “Applicable Law” means, with respect to any Person, any Law applicable to such Person or its business, properties or assets.
17. “AR Sacaton” means AR Sacaton, LLC, a Delaware limited liability company.
18. “Arizona NRD Settlement Agreement” means the Settlement Agreement Regarding Natural Resource Damage Claims for Mineral Creek, the Gila River, and the San Pedro River, Arizona, by and among the United States, the State of Arizona, and ASARCO, which resolves all Claims against ASARCO related to natural resource damages for the sites addressed therein, referenced in the motion for approval thereof filed on March 30, 2009 [Docket No. 10657] and approved by order entered on April 23, 2009 [Docket No. 10949].
19. “ARSB” means AR Silver Bell, Inc., a Delaware corporation.
20. “ASARCO” means ASARCO LLC.
21. “ASARCO Committee” means the Official Committee of Unsecured Creditors appointed by the United States Trustee in ASARCO’s bankruptcy case pursuant to section 1102 of the Bankruptcy Code.
22. “ASARCO Deed of Trust” means, with respect to the Parent’s Plan, collectively, the deeds of trust, substantially in the form attached as **Parent’s Plan Exhibit 13** to the Parent’s Plan, delivered to the Section 524(g) Trust to secure Reorganized ASARCO’s performance under the ASARCO Note.
23. “ASARCO Incorporated” means the Delaware corporation that owns 100% of the equity interests in ASARCO USA Incorporated.
24. “ASARCO LLC” means a Delaware limited liability company and one of the Debtors herein.

25. “ASARCO LLC Subgroup” means ASARCO LLC and its subsidiaries.
26. “ASARCO Master” means ASARCO Master, Inc. (f/k/a Asarco (Delaware), Inc.), a Delaware corporation and one of the Debtors herein. A number of entities were merged into ASARCO Master prior to the Petition Date, including, without limitation, AR Montana Corporation; Asarco Arizona, Inc.; Asarco Exploration Holdings Company, Inc.; Asarco Aginskoe, Inc.; Asarco de Mexico (Delaware) Inc.; Asarco Mexicana (Delaware) Inc.; Asarco Peruvian Exploration Company; GH Holdings Inc.; GHH, LLC; Northern Peru Mining Corporation; NPMC, Incorporated; Domestic Realty Company, Inc.; Midland Coal Company Incorporated; Biotrace Laboratories, Incorporated; Federated Metals Corporation; and LSLC Corp.
27. “ASARCO NJ” means the former ASARCO Incorporated, a New Jersey corporation, a predecessor of ASARCO LLC.
28. “ASARCO NJ Consolidated Group” means the affiliated group of corporations consisting of ASARCO NJ and its subsidiaries for years before 1999.
29. “ASARCO NJ Subgroup” means ASARCO NJ and its subsidiaries.
30. “ASARCO Note” means, with respect to the Parent’s Plan, a promissory note made payable by Reorganized ASARCO in the original principal amount of \$250 million with a term of one (1) year from the Effective Date, bearing interest at the rate of 6.0% per annum and secured by a first lien on the Assets of Reorganized ASARCO and a pledge by the Parent of 51% of the equity in Reorganized ASARCO.
31. “ASARCO Protected Non-Debtor Affiliate” means an entity listed on **Parent’s Plan Exhibit 1** to the Parent’s Plan as such list may be amended or supplemented from time to time.
32. “ASARCO Protected Parties” (each one, an “ASARCO Protected Party”) means:
  - (i) **Under the Debtors’ Plan:** (a) the Debtors and their predecessors; (b) the Reorganized Debtors; (c) the ASARCO Protected Non-Debtor Affiliates and their predecessors; (d) the Debtors’ Plan Sponsor and the Guarantor (and any of their respective Affiliates); (e) Settling Asbestos Insurance Companies; (f) the Trusts (except to the extent that the Asbestos Trust Agreement, the Asbestos TDP, or both expressly permit litigation against the Asbestos Trust); (g) the Trustees; (h) the Asbestos TAC; (i) the FCR; (j) the Committees, including their members in their member capacities; (k) the Debtors’ Plan Administrator; (l) the Examiner; (m) employee benefit plan “fiduciaries” (within the meaning of section 3(21) of ERISA) who are directors or employees of a Debtor; (n) the Indenture Trustees; and (o) the present and former directors, officers, agents, attorneys, accountants, consultants, financial advisors, investment bankers, professionals, experts, and employees of any of the foregoing, in their respective capacities as such, including, without limitation, the Protected Officers and Directors; provided, however, that the term “ASARCO Protected Party” does not include (x) the non-Debtor named defendants in the Derivative D&O Litigation, the

Burns Litigation, or the SCC Litigation or (y) Grupo México and its Affiliates other than ASARCO and ASARCO's direct and indirect subsidiaries.

- (ii) **Under the Parent's Plan:** (a) the Debtors and their respective predecessors; (b) Reorganized ASARCO; (c) the ASARCO Protected Non-Debtor Affiliates and their respective predecessors; (d) the Parent and its Affiliates and predecessors; (e) Grupo México and its Affiliates and predecessors; (f) the Trusts; (g) the Trustees; (h) the Section 524(g) Trust Advisory Committee; (i) the FCR; (j) the Asbestos Claimants' Committee, including its members in their member capacities; (k) the Parent's Plan Administrator; (l) the Examiner; (m) the ASARCO Committee, including its members in their member capacities; and (n) the present and former directors, officers, agents, attorneys, accountants, consultants, financial advisors, investment bankers, professionals, experts, and employees of any of the foregoing, in their respective capacities as such.
33. "ASARCO Residual Assets" means, with respect to the Debtors' Plan, the Asbestos Insurance Policies, the Asbestos Insurance Recoveries, the Asbestos In-Place Insurance Coverage, the Asbestos Insurance Actions, the Vested Causes of Action, the Debtors' Plan Administration Reserve, and any other assets that the Debtors designate prior to the Confirmation Hearing.
34. "ASARCO Security Agreement" means, with respect to the Parent's Plan, a security agreement, substantially in the form attached as **Parent's Plan Exhibit 12** to the Parent's Plan, delivered to the Section 524(g) Trust to secure Reorganized ASARCO's performance under the ASARCO Note.
35. "ASARCO USA Incorporated" means the Delaware Corporation that owns 100% of the equity interests in ASARCO LLC.
36. "Asbestos/AMC/Parent Agreement in Principle" means the Agreement in Principle Regarding Summary Terms of Chapter 11 Plan for ASARCO LLC and Subsidiaries among the Asbestos Subsidiary Committee, the FCR, AMC and the Parent, as filed in redacted form on April 17, 2009 [Docket No. 10873].
37. "Asbestos Books" means all of the books and records of ASARCO and Reorganized ASARCO, wherever located, to the extent that such books and records relate to the Section 524(g) Trust Assets, Asbestos Insurance Policies including all historical information relating to such Asbestos Insurance Policies or the settlement of any such Asbestos Insurance Policies, or any Asbestos Personal Injury Claims, including all historical information relating to Asbestos Personal Injury Claims or the settlement of any such claims.
38. "Asbestos Claimants' Committee" means the Official Committee of Asbestos Claimants appointed by the U.S. Trustee in the Reorganization Cases pursuant to section 1102 of the Bankruptcy Code and the August 26, 2008 order entered by the Bankruptcy Court.
39. "Asbestos In-Place Insurance Coverage" means any insurance coverage, not reduced to Cash proceeds, that is available as of the Effective Date in connection with asbestos-

related Claims, remedies, Liabilities and Demands, including Section 524(g) Trust Expenses, under any Asbestos Insurance Policy as a result of or in accordance with an Asbestos Insurance Settlement Agreement or a prepetition settlement agreement with an Asbestos Insurance Company.

40. “Asbestos Insurance Action” means (a) any Avoidance Action against any Asbestos Insurance Company; (b) any claim, cause of action, or right of the Debtors or Reorganized ASARCO against any Asbestos Insurance Company concerning insurance coverage for asbestos-related Claims, remedies, Liabilities and Demands and/or enforcement of prepetition settlement agreements and/or extracontractual or statutory remedies and relief, including but not limited to litigation, arbitration, mediation and informal negotiations, whether past, pending or not yet initiated; and (c) any claim, cause of action, or right of the Debtors or Reorganized ASARCO to pursue insurance recovery through available administrative or other means from Asbestos Insurance Companies that are insolvent, or have been liquidated, or are otherwise subject to statutory or legal protections against litigation.
41. “Asbestos Insurance Company” means any insurance company, reinsurance company, syndicate, insurance broker, syndicate insurance broker, guaranty association, or any other Entity with demonstrated or potential liability to the Debtors or Reorganized ASARCO for coverage under an Asbestos Insurance Policy arising from or related to asbestos-related Claims, remedies, Liabilities and Demands, including but not limited to any such Entity that entered into a prepetition settlement agreement with the Debtors that is currently the subject of an Avoidance Action.
42. “Asbestos Insurance Company Injunction” means:
  - (i) **Under the Debtors’ Plan**: the injunction set forth in Article 11.3(b) of the Debtors’ Plan in favor of the Settling Asbestos Insurance Companies.
  - (ii) **Under the Parent’s Plan**: the injunction set forth in Article 11.3(b) of the Parent’s Plan in favor of the Settling Asbestos Insurance Companies.
43. “Asbestos Insurance Policy” means any insurance policy that provides or may provide coverage for claims arising from or related to asbestos-related Claims, remedies, Liabilities and Demands, whether products or premises, and that are or may become available to provide such coverage as a result of the resolution of any Avoidance Actions against any Asbestos Insurance Company.
44. “Asbestos Insurance Recovery or Recoveries” means (a) the right to pursue and receive the benefits and/or proceeds of Asbestos In-Place Insurance Coverage, including but not limited to the benefits and/or proceeds from certain Asbestos Insurance Policies that are subject to prepetition settlement agreements regarding Asbestos Premises Liability Claims; (b) the right to pursue and receive the benefits and/or proceeds of any Asbestos Insurance Policy or Asbestos Insurance Settlement Agreement; (c) the right to pursue and receive recovery from or as a result of any Asbestos Insurance Action, including but not limited to consequential, contractual, extracontractual and/or statutory damages, or other



proceeds, distributions, awards or benefits; and (d) the right to pursue and receive any other recovery.

45. “Asbestos Insurance Settlement Agreement” means that certain Settlement Agreement approved by the Bankruptcy Court’s Order Granting Debtor’s Motion To Approve Settlement Agreement and Related Relief, entered September 14, 2006.
46. “Asbestos Personal Injury Claim” means any Claim, remedy or Liability against any of the Debtors, including all related claims, debts, obligations or Liabilities, whenever and wherever arising or asserted, whether under a direct or indirect theory of liability, whether domestic or foreign, whether now existing or hereafter arising, whether or not such Claim, remedy or liability is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, bonded, secured or unsecured, whether or not the facts or legal bases therefor are known or unknown, whether or not known, unknown or knowable before Confirmation of the Parent’s Plan or the close of the Reorganization Cases, whether based on premises or products liability, alleging, arising out of, or in any way relating to physical, emotional, economic, or any other damage or injury for which any of the Debtors is alleged to be liable, whether direct or indirect and whether alleged or asserted against such Debtor directly or on account of any Alter Ego Theory, arising out of or in any way relating to asbestos or any products or materials containing asbestos. Asbestos Personal Injury Claims include all such Claims, remedies, Liabilities and Demands whether in tort, contract, warranty, restitution, conspiracy, contribution, indemnity, guarantee, subrogation, joint and several liability, reimbursement, or any other theory of law, equity, admiralty or otherwise, whether seeking compensatory, special, economic and non-economic, punitive exemplary, administrative, proximate, or any other costs or damages; or whether seeking any legal, equitable, or other relief of any kind whatsoever, whether under common law or by statute including workers’ compensation Claims brought directly or indirectly by a past or present employee of any of the Debtors under an applicable workers’ compensation statute against such Debtor.
47. “Asbestos Personal Injury Claimant” means the holder of an Asbestos Personal Injury Claim.
48. “Asbestos Premises Liability Claims and Demands” means any and all Asbestos Personal Injury Claims and Demands against any of the Debtors that are identified as premises claims under the terms and conditions of the Asbestos Insurance Policies, specifically including such policies that are subject to prepetition settlement agreements for premises claims.
49. “Asbestos Premises Liability Claims Fund” means, with respect to the Parent’s Plan, the fund to be created by the Section 524(g) Trustees for payment of all Asbestos Premises Liability Claims and Demands.
50. “Asbestos Representatives” means the Asbestos Claimants’ Committee and the FCR.

51. “Asbestos Subsidiary Cases” means the bankruptcy cases of the Asbestos Subsidiary Debtors.
52. “Asbestos Subsidiary Committee” means the Official Committee of Unsecured Creditors appointed by the United States Trustee in the Asbestos Subsidiary Debtors’ bankruptcy cases, pursuant to section 1102 of the Bankruptcy Code. This committee has been reconstituted and renamed the Asbestos Claimants’ Committee.
53. “Asbestos Subsidiary Debtors” means Lac d’Amiante du Québec Ltée; Lake Asbestos of Quebec, Ltd.; LAQ Canada, Ltd.; CAPCO Pipe Company, Inc.; and Cement Asbestos Products Company.
54. “Asbestos TAC” means the Asbestos Trust Advisory Committee created pursuant to the Debtors’ Plan and the Asbestos Trust Agreement, as may be reconstituted from time to time in accordance with the terms thereof.
55. “Asbestos TDP” means, with respect to the Debtors’ Plan, the trust distribution procedures, substantially in the form attached as Exhibit 1 to the Asbestos Trust Agreement, as such procedures may be modified from time to time in accordance with the terms thereof, the Asbestos Trust Agreement, or the Debtors’ Plan.
56. “Asbestos Trust” means, with respect to the Debtors’ Plan, the tax-qualified settlement trust to be established pursuant to the Debtors’ Plan and the Asbestos Trust Agreement.
57. “Asbestos Trust Agreement” means, with respect to the Debtors’ Plan, the Asbestos Trust Agreement, effective as of the Effective Date, substantially in the form attached as Exhibit 6 to the Debtors’ Plan, as it may be modified from time to time in accordance with the terms thereof.
58. “Asbestos Trust Assets” means, with respect to the Debtors’ Plan, (a) 100 percent of the interests in Reorganized Covington and (b) Cash equal to the amount of the Asbestos Personal Injury Claims and Demands, as estimated by the Bankruptcy Court or agreed to by the Debtors.
59. “Asbestos Trust Beneficiaries” means, with respect to the Debtors’ Plan, the holders of Unsecured Asbestos Personal Injury Claims and Demands.
60. “Asbestos Trust Bylaws” means, with respect to the Debtors’ Plan, the Asbestos Trust Bylaws, effective as of the Effective Date, as such bylaws may be modified from time to time in accordance with the terms of the Asbestos Trust Agreement.
61. “Asbestos Trust Documents” means, with respect to the Debtors’ Plan, each of the Asbestos Trust Agreement, the Asbestos Trust Bylaws, the Asbestos TDP, and the other agreements, instruments, and documents governing the establishment, administration, and operation of the Asbestos Trust, as they may be amended or modified from time to time in accordance with the Debtors’ Plan or the terms of such documents.

62. “Asbestos Trust Expenses” means, with respect to the Debtors’ Plan, any costs or expenses of, or imposed upon, assumed by, or in respect of, the Asbestos Trust, except for payments to holders of Unsecured Asbestos Personal Injury Claims or Demands on account of such Unsecured Asbestos Personal Injury Claims or Demands.
63. “Asbestos Trustees” means, with respect to the Debtors’ Plan, the individuals appointed as trustees of the Asbestos Trust under the Asbestos Trust Agreement and any successors thereto chosen in accordance with the Asbestos Trust Agreement.
64. “Assumed Environmental Liabilities” means, with respect to the Parent’s Plan, all Liabilities of the Debtors 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 Effective Date.
65. “Assumed Liabilities” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means those Liabilities described in section 3.3(a) through (g) of the New Plan Sponsor PSA that the Debtors’ Plan Sponsor shall assume, pay, perform, and discharge when due.
66. “Augusta Defendants” means Augusta Resource (Arizona) Corporation and Augusta Resource Corporation.
67. “Available Debtors’ Plan Funds” means, with respect to the Debtors’ Plan, the funds remaining from the Available Plan Sales Proceeds and the Distributable Cash, after the Debtors’ Plan Administrator has fully funded the Debtors’ Plan Administration Reserve, the Environmental Custodial Trust Administration Funding, the Environmental Custodial Trust Funding, the Litigation Expense Fund, the SCC Litigation Expense Fund, and the Residual Assets Liquidation Expense Fund.
68. “Available Plan Sales Proceeds” means the Debtors’ Plan Sales Proceeds and any interest earned thereon.
69. “Avoidance Action” means causes of action arising under chapter 5 of the Bankruptcy Code, or under related state or federal statutes and common law, including fraudulent transfer and fraudulent conveyance laws, whether or not litigation has commenced to prosecute such causes of actions.
70. “Back-Up Bid Agreement” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means a definitive purchase and sale agreement executed by the Debtors’ Plan Sponsor and the Guarantor in the form of the New Plan Sponsor PSA (including Article II thereof) with only such modifications as are described in section 8.10(f) of the New Plan Sponsor PSA.
71. “Back-Up Bid Option” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only

means the Debtors' Plan Sponsor's right, under certain circumstances, to consummate the purchase and sale of the Sold Assets and the assumption of the Assumed Liabilities in a transaction on substantially the same terms and conditions as the New Plan Sponsor PSA, pursuant to section 8.10(f) thereof.

72. "Ballot" means the form or forms distributed to holders of impaired Claims on which is to be indicated the acceptance or rejection of the Debtors' Plan and/or the Parent's Plan, as applicable.
73. "Balloting Agent" means AlixPartners, LLP.
74. "Bankruptcy Code" means title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made, to the extent applicable to the Reorganization Cases.
75. "Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of Texas, Corpus Christi Division.
76. "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure and the local rules of the Bankruptcy Court, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made applicable to the Reorganization Cases.
77. "Bar Date Orders" means the respective orders entered by the Bankruptcy Court establishing the respective Bar Dates, including the Confirmation Order.
78. "Bar Dates" means the respective dates by which all Entities asserting certain Claims against a Debtor must have filed a Proof of Claim or be forever barred from asserting such Claims against such Debtor or its Estate, as established by any orders of the Bankruptcy Court or the Parent's Plan.
79. "Barclays Capital" means Barclays Capital Inc.
80. "Bid Procedures Order" means the interim order approving the Debtors' Plan Sponsor procedures, entered by the Bankruptcy Court on March 25, 2008.
81. "Bid Protections Order" means the Final Order Granting Motion of ASARCO LLC for an Order Approving (1) Bid Procedures in Connection with Selecting a Chapter 11 Plan Sponsor and Exit Transaction under a Chapter 11 Plan and (2) Bid Protections to Sterlite (USA), Inc. in Connection Therewith, entered by the Bankruptcy Court on July 1, 2008.
82. "Bondholder" means an Entity that holds one or more of the Bonds.
83. "Bondholder Claim" means any Claim arising under one or more of the Bonds.
84. "Bonds" means ASARCO's unsecured long-term bond debt.
85. "Bonds Issuance" means each of the following:

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

86. “Burns Litigation” means the claims and causes of action of the Debtors in the action pending in the Supreme Court of the State of New York, County of New York, styled Phillip Nelson Burns, et al., v. Grupo México, S.A. de C.V., et al., Index No. 0114728/2004 against various defendants, including Grupo México, but not including the Debtors’ claims and causes of action that have been removed and transferred to the District Court and are now pending as Civil Action Nos. 07-00018 and 07-00203 as part of the SCC Litigation.
87. “Business” means:
- (i) **Under the Debtors’ Plan:** shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the business of mining, smelting, and refining of copper and other metals as conducted by the Sellers on the date of the New Plan Sponsor PSA.
- (ii) **Under the Parent’s Plan:** the business of mining, smelting and refining of copper and other metals as conducted by the Debtors.
88. “Business Day” means any day other than a Saturday, Sunday, or legal holiday (as such term is defined in Bankruptcy Rule 9006(a)).
89. “CAPCO” means CAPCO Pipe Company, Inc. (f/k/a Cement Asbestos Products Company), an Alabama corporation, and one of the Asbestos Subsidiary Debtors.
90. “Cash” means cash, cash equivalents, and other readily marketable securities or instruments, including, without limitation, direct obligations of the United States and certificates of deposit issued by federally insured banks.
91. “CBA” means the collective bargaining agreement between ASARCO and the USW on behalf of itself and the other labor organizations representing the bargaining unit employees of ASARCO.
92. “CBRI” means Copper Basin Railway, Inc., a Delaware corporation.
93. “CDA Trust” means the trust created pursuant to the Residual Environmental Settlement Agreement for the Coeur d’Alene, Idaho site and properties owned by the Debtors in Shoshone County and Kootenai County, Idaho.

94. “CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601, *et seq.*
95. “Certificate” means an instrument evidencing an Allowed Bondholder Claim.
96. “Charging Lien” means any lien that an Indenture Trustee is entitled to exercise under the terms of its Indenture against, or any other priority in payment to which such Indenture Trustee is entitled under the terms of its Indenture with respect to, any distribution to be made under such Indenture or on account of any debts of the Debtors owed to holders of obligations under such Indenture.
97. “Chase” means JPMorgan Chase Bank, N.A., the issuer under the Credit Facility.
98. “Claim” shall have the meaning assigned to such term by section 101(5) of the Bankruptcy Code.
99. “Claim Objection Deadline” shall have the meaning assigned to such term in Article 14.2(a) of the Debtors’ Plan.
100. “Claimant” means the holder of a Claim.
101. “Claims Agent” means AlixPartners, LLP. The Trumbull Group, L.L.C. had previously served as claims agent, prior to its withdrawal from the bankruptcy claims administration market.
102. “Class” means a category of Claims or Interests.
103. “Class A Litigation Trust Interest” means, with respect to the Debtors’ Plan, the Litigation Trust Interests issued to holders of Class 3 General Unsecured Claims other than Governmental Authorities with environmental claims.
104. “Class A Residual Assets Liquidation Trust Interest” means, with respect to the Debtors’ Plan, the Residual Assets Liquidation Trust Interests issued to holders of Class 3 General Unsecured Claims other than Governmental Authorities with environmental claims.
105. “Class A SCC Litigation Trust Interest” means, with respect to the Debtors’ Plan, the SCC Litigation Trust Interests issued to holders of Class 3 General Unsecured Claims other than Governmental Authorities with environmental claims.
106. “Class B Litigation Trust Interest” means, with respect to the Debtors’ Plan, the Litigation Trust Interests issued to holders of Class 3 General Unsecured Claims that are Governmental Authorities with environmental Claims.
107. “Class B Residual Assets Liquidation Trust Interest” means, with respect to the Debtors’ Plan, the Residual Assets Liquidation Trust Interests issued to holders of Class 3 General Unsecured Claims that are Governmental Authorities with environmental Claims.

108. “Class B SCC Litigation Trust Interest” means, with respect to the Debtors’ Plan, the SCC Litigation Trust Interests issued to holders of Class 3 General Unsecured Claims that are Governmental Authorities with environmental Claims.
109. “Class C SCC Litigation Trust Interest” means, with respect to the Debtors’ Plan, the SCC Litigation Trust Interests issued to the purchasers at the auction of such interests.
110. “Closing” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the closing of the sale and purchase of the Sold Assets and the assumption of the Assumed Liabilities pursuant to the New Plan Sponsor PSA.
111. “Closing Date” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the date on which the Closing occurs.
112. “Coal Act” means the Coal Industry Retiree Health Benefit Act of 1992, as amended.
113. “COBRA” means the Consolidated Omnibus Budget Reconciliation Act.
114. “COD Income” means cancellation of indebtedness income.
115. “Committees” means the ASARCO Committee, the Asbestos Subsidiary Committee, and the Asbestos Claimants’ Committee.
116. “Confidentiality Agreement” means the confidentiality agreement dated July 6, 2007, between the Guarantor and ASARCO.
117. “Collateral” means any property or interest in property of any of the Debtors’ Estates which is subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance or otherwise invalid under the Bankruptcy Code or other applicable law.
118. “Confirmation” or “Confirmation of the Parent’s Plan” means the approval of the Parent’s Plan by the Bankruptcy Court and/or the District Court at the Confirmation Hearing.
119. “Confirmation Date” means the date on which the Confirmation Order is entered on the docket of the Bankruptcy Court.
120. “Confirmation Hearing” means the hearing(s) that will be held before the Bankruptcy Court and/or the District Court, in which ASARCO will seek Confirmation of the Parent’s Plan.
121. “Confirmation Order” means the order of the Bankruptcy Court and/or the District Court confirming the Parent’s Plan pursuant to section 1129 and other applicable sections of the Bankruptcy Code.
122. “Consummation” means the occurrence of the Effective Date.

123. “Contract” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means any written contract, indenture, note, bond, loan, instrument, lease, commitment, or other agreement.
124. “Convenience Claim” means, with respect to the Debtors’ Plan, any Allowed Unsecured Claim, excluding Asbestos Personal Injury Claims, otherwise entitled to treatment under Class 3 of the Debtors’ Plan, which is \$1,000 or less when aggregated with the other Unsecured Claims of such holder, or, in the alternative, is reduced by election of such holder on such holder’s Ballot, together with all other Unsecured Claims of such holder, to an aggregate Unsecured Claim of \$1,000.
125. “Corporate Governance Stipulation” means the Stipulation and Order Regarding Corporate Governance, entered by the Bankruptcy Court on December 15, 2005.
126. “Covington” means Covington Land Company, a Delaware corporation.
127. “Covington Residual Assets” means assets of Covington and the Asbestos Subsidiary Debtors, including, without limitation, the Property of the Estate of such debtors.
128. “Credit Facility” means the \$5 million senior secured twelve-month credit facility issued by Chase.
129. “Creditor Constituents” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the ASARCO Committee, the Asbestos Subsidiary Committee, the FCR, the DOJ, the United Steel Workers Union, and the States of Washington, Montana, Missouri, Arizona, and Texas.
130. “Cure Amount Claim” means a Claim based upon a Debtor’s defaults under an executory contract or unexpired lease at the time such contract or lease is assumed and assigned to Reorganized ASARCO pursuant to section 365 of the Bankruptcy Code.
131. “Custodial Trust Administrative Accounts” means the trust accounts established pursuant to the various Environmental Custodial Trust Agreements into which Environmental Custodial Trust Administration Funding shall be deposited.
132. “Custodial Trust Environmental Cost Accounts” means the trust accounts established pursuant to the various Environmental Custodial Trust Agreements into which the Environmental Custodial Trust Funding shall be deposited.
133. “Debtor” means one of the Debtors.
134. “Debtors” means the debtors in the Reorganization Cases, including, without limitation, Lac d’Amiante du Québec Ltée; Lake Asbestos of Quebec, Ltd.; LAQ Canada, Ltd.; CAPCO Pipe Company, Inc.; Cement Asbestos Products Company; ASARCO LLC; ASARCO Consulting, Inc.; Encycle, Inc.; ALC, Inc.; American Smelting and Refining Company; AR Mexican Explorations, Inc.; Asarco Master, Inc.; Asarco Oil and Gas Company, Inc.; Bridgeview Management Company, Inc.; Covington Land Company; Government Gulch Mining Company, Limited; 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.

135. “Debtors’ Disclosure Statement” means the disclosure statement in support of the Debtors’ Plan, as filed with the Bankruptcy Court on March 16, 2009.
136. “Debtors’ Plan” means the Debtors’ Fourth Amended Joint Plan of Reorganization Under Chapter 11 of the United States Bankruptcy Code, as filed with the Bankruptcy Court on April 27, 2009.
137. “Debtors’ Plan Administration Agreement” means the form of agreement with the Debtors’ Plan Administrator, effective as of the Effective Date, as it may be modified from time to time in accordance with the terms thereof.
138. “Debtors’ Plan Administrator” means the Entity that shall make distributions under the Debtors’ Plan to Claimants (other than the Asbestos Personal Injury Claimants), handle any objections to such Claimants’ Claims, and perform the other work assigned to such Entity by the Debtors’ Plan, the Debtors’ Plan Administration Agreement, or the Confirmation Order.
139. “Debtors’ Plan Administration Committee” means the three-member committee appointed pursuant to the Debtors’ Plan Administration Agreement to consult with and advise the Debtors’ Plan Administrator.
140. “Debtors’ Plan Administration Reserve” means the funds placed in the Debtors’ Plan Administration Account (and any subaccounts), the Miscellaneous Plan Administration Accounts, and any general accounts established by the Debtors’ Plan Administrator.
141. “Debtors’ Plan Documents” means the Debtors’ Plan, the Disclosure Statement, and all documents, attachments, and exhibits attached to the Debtors’ Plan or the Disclosure Statement that aid in effectuating the Debtors’ Plan, including, without limitation, the Asbestos Trust Documents, as the same may be amended, modified, or supplemented, in accordance with their terms.
142. “Debtors’ Plan Sales Proceeds” means, with respect to the Debtors’ Plan, the \$1.1 billion to be paid by the Debtors’ Plan Sponsor in connection with its purchase of the Sold Assets and the amounts paid to Reorganized ASARCO under the Debtors’ Plan Sponsor Promissory Note.
143. “Debtors’ Plan Sponsor” means Sterlite (USA), Inc., a Delaware corporation.
144. “Debtors’ Plan Sponsor Promissory Note” shall have the meaning assigned to the term “Purchaser Promissory Note” in the New Plan Sponsor PSA, which for reference purposes only means a promissory note in the principal amount of \$600 million (as adjusted pursuant to section 4.3(c) of the New Plan Sponsor PSA and section 2.7 of the Debtors’ Plan Sponsor Promissory Note) issued at Closing by the Debtors’ Plan Sponsor

- to Reorganized ASARCO (or such other person as ASARCO may designate in accordance with the Debtors' Plan) in the form of Exhibit D to the New Plan Sponsor PSA.
145. "Deemed Value" shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means, in respect of the Purchase Price or a Superior Proposal, the aggregate dollar value to the 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.
  146. "Definitive Agreement" shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only 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.
  147. "Delaware Trustee" means, with respect to the Debtors' Plan, the Entity appointed under the Asbestos Trust Agreement, the Litigation Trust Agreement, the SCC Litigation Trust Agreement, and the Residual Assets Liquidation Trust Agreement to fulfill the requirement of section 3807 of the Delaware Statutory Trust Act, 12 Del. Code Ann. § 3807.
  148. "Demand" means a demand against any of the Debtors, to the fullest extent such term is used or defined in section 524(g)(5) of the Bankruptcy Code, for payment, present or future, that (a) was not a Claim during the proceedings before the Bankruptcy Court leading to Confirmation of a plan of reorganization in the Reorganization Cases; and (b) arises out of the same or similar conduct or events that gave rise to (i) an Asbestos Personal Injury Claim and/or out of property damage allegedly caused by or arising out of asbestos or asbestos-containing products, or (ii) an Asbestos Premises Liability Claim.
  149. "Deposit" shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the funds in the aggregate amount of \$125 million that the Debtors' Plan Sponsor shall make available to ASARCO pursuant to section 4.2 of the New Plan Sponsor PSA.
  150. "Derivative Asbestos Claims" means Asbestos Personal Injury Claims against the Asbestos Subsidiary Debtors for which ASARCO is alleged to be liable under any of the various Alter Ego Theories.
  151. "Derivative D&O Litigation" means the claims and causes of action of the Debtors asserted derivatively by the ASARCO Committee in Adversary No. 07-02077, pending in the Bankruptcy Court.

152. “Designated Elected Properties” means, with respect to the Parent’s Plan, those Designated Properties with respect to which an election has been made pursuant to section 4.2(g) of the Parent’s Plan to transfer them to an Environmental Custodial Trust.
153. “Designated Properties” means each parcel of real property generally identified on **Debtors’ Plan Exhibit 10** or **Parent’s Plan Exhibit 16**, as applicable, under the heading Designated Properties.
154. “DIP Agent” means The CIT Group/Business Credit, Inc., the Entity that provided the DIP Facility to ASARCO.
155. “DIP Facility” means the debtor-in-possession credit facility provided by the DIP Agent to ASARCO.
156. “Discharge Injunction” means the permanent injunction set forth in Article 11.2 of the Debtors’ Plan or Article 12.2 of the Parent’s Plan, as applicable.
157. “Disclosure Order” means the order entered by the Bankruptcy Court on \_\_\_\_\_, 2009, approving the Disclosure Statement, a copy of which is attached to the Disclosure Statement as **Exhibit C**.
158. “Disclosure Schedule” shall have the meaning assigned to the term “Seller Disclosure Schedule” in the New Plan Sponsor PSA, which for reference purposes only means the disclosure schedule delivered to the Debtors’ Plan Sponsor pursuant to the New Plan Sponsor PSA.
159. “Disclosure Statement” means the Disclosure Statement in support of the Debtors’ Plan and the Parent’s Plan approved by the Bankruptcy Court, as such Disclosure Statement may be further amended, supplemented, or modified from time to time.
160. “Disclosure Statement Approval Date” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the date on which the Disclosure Statement (as such term is defined in the New Plan Sponsor PSA) shall have been approved by the Bankruptcy Court.
161. “Disputed Claim” means a Claim that is not an Allowed Claim, including a Claim that is, in whole or in part: (a) listed on the Schedules as, or proof of which is filed as, unliquidated, disputed or contingent; (b) as to which a Proof of Claim designating such Claim as liquidated in amount and not contingent was not timely and properly filed; (c) as to which the Debtors, Reorganized ASARCO, the Parent’s Plan Administrator, the Section 524(g) Trustees, or other party in interest has filed a timely objection or request for estimation in accordance with the Bankruptcy Code and Bankruptcy Rules; or (d) is otherwise disputed by the Debtors, Reorganized ASARCO, the Parent’s Plan Administrator, the Section 524(g) Trustees, or other party in interest in accordance with Applicable Law, which objection, request for estimation or dispute has not been withdrawn or determined by a Final Order.

162. “Disputed Claims Reserve” means a reserve for any distributions to be set aside by the Parent’s Plan Administrator pursuant to Article 13.8 of the Debtors’ Plan or Article 14.9 of the Parent’s Plan, as applicable, on account of Disputed Claims.
163. “Disputed Secured Claims Escrow Account” means the escrow account(s) established by the Parent’s Plan Administrator pursuant to Article 10.2 of the Parent’s Plan on account of allegedly Secured Claims that are Disputed Claims.
164. “Distributable Cash” means unrestricted Cash on hand with ASARCO on the Effective Date, plus interest earned thereon, if any, minus the Working Capital Reserve.
165. “Distribution Record Date” means the close of business on the Confirmation Date.
166. “District Court” means the United States District Court for the Southern District of Texas.
167. “DOJ” means the United States Department of Justice, Environment & Natural Resources Division.
168. “DTC” means the Depository Trust Company.
169. “East Helena Soils Settlement Agreement” means the Settlement Agreement Regarding Response Costs at the East Helena Superfund Site referenced in the motion for approval thereof filed on September 19, 2008 [Docket No. 9231] and approved by order entered on February 6, 2009 [Docket No. 10392].
170. “Effective Date” means, and shall occur on, the first Business Day upon which all of the conditions to occurrence of the Effective Date contained in Article 9.1 of the Parent’s Plan have been satisfied, or waived pursuant to Article 9.2 of the Parent’s Plan.
171. “Effective Order” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means a Plan Confirmation Order entered by the Bankruptcy Court or the United States District Court that has jurisdiction over the Bankruptcy Cases (as such term is defined in the New Plan Sponsor PSA): (a) as to 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 Bankruptcy Rules may be filed with respect to such order or judgment.
172. “El Paso Paving SEP Claim” means the City of El Paso’s claim related to the paving supplemental environmental project.
173. “El Paso Stipulation” means the Stipulation Relating to Proofs of Claim for El Paso County Metals Survey Site and Dona Ana Metal Site and Modification of Case

Management Order referenced in the motion for approval thereof filed on September 12, 2007 [Docket No. 5775], and approved by the Bankruptcy Court by orders entered on October 5, 2007 [Docket No. 6019] and on December 4, 2007 [Docket No. 6434].

174. “ELT/ES” means ELT Houston, LLC and EnergySolutions, LLC.
175. “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 any of the Debtors or with respect to which any of the Debtors has any obligation or liability.
176. “Entity” shall have the meaning assigned to such term by section 101(15) of the Bankruptcy Code.
177. “Environmental 9019 Motion” means the Debtors’ Motion under Bankruptcy Rule 9019 for Order Approving Settlement of Environmental Claims, filed on March 12, 2009 [Docket No. 10534].
178. “Environmental Agencies” means Governmental Units whose responsibilities include enforcement and oversight of Environmental Law.
179. “Environmental Custodial Trust(s)” means the custodial trusts to be established pursuant to the various Environmental Custodial Trust Agreements with respect to (a) under the Debtors’ Plan, the Designated Properties, and (b) under the Parent’s Plan, the Designated Elected Properties.
180. “Environmental Custodial Trust Accounts” means the Custodial Trust Environmental Cost Accounts and the Custodial Trust Administrative Accounts.
181. “Environmental Custodial Trust Administration Funding” means:
  - (i) **Under the Debtors’ Plan:** with respect to each Environmental Custodial Trust, Cash that shall be disbursed to each such trust to fund administration costs and expenses of such trust, as listed on **Debtors’ Plan Exhibit 10.**
  - (ii) **Under the Parent’s Plan:** with respect to each Environmental Custodial Trust, Cash that shall be disbursed to each such trust to fund administration costs and expenses of such trust in connection with each Designated Elected Property transferred to such trust, as listed on **Parent’s Plan Exhibit 16-B.**
182. “Environmental Custodial Trust Agreements” means the agreements governing the operation of the Environmental Custodial Trusts, as well as any other ancillary agreements or related documents.

183. “Environmental Custodial Trust Assets” means, with respect to each Environmental Custodial Trust (a) the Designated Elected Properties and related contracts, fixtures, and personalty transferred to such Environmental Custodial Trust, (b) the Environmental Custodial Trust Administration Funding, and (c) the Environmental Custodial Trust Funding.
184. “Environmental Custodial Trust Documents” means the Environmental Custodial Trust Agreements and the other agreements, instruments, and documents governing the establishment, administration, and operation of the Environmental Custodial Trusts, as they may be amended or modified from time to time in accordance with the terms of such documents.
185. “Environmental Custodial Trust Funding” means:
- (i) **Under the Debtors’ Plan:** with respect to each Environmental Custodial Trust, Cash that shall be disbursed to each such trust to fund remediation and restoration of, and other environmental costs related the Designated Properties, as listed on **Debtors’ Plan Exhibit 10.**
  - (ii) **Under the Parent’s Plan:** with respect to each Environmental Custodial Trust, Cash that shall be disbursed to each such trust to fund remediation and restoration of, and other environmental costs related to the Designated Elected Properties transferred to such Environmental Custodial Trust, as listed on **Parent’s Plan Exhibit 16-B.**
186. “Environmental Custodial Trust Settlement Agreements” means the settlement agreements with EPA or other Environmental Agencies relating to the Designated Properties.
187. “Environmental Custodial Trustees” means the Entities appointed as Environmental Custodial Trustees under the various Environmental Custodial Trust Agreements and any successors thereto chosen in accordance with such Environmental Custodial Trust Agreements.
188. “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, CERCLA; RCRA; the Toxic Substances Control Act (15 U.S.C. § 2601, *et seq.*); the Clean Water Act (33 U.S.C. § 1251, *et seq.*); the Oil Pollution Act of 1990 (33 U.S.C. § 2701, *et seq.*); the Clean Air Act (42 U.S.C. § 7401, *et seq.*); the Atomic Energy Act (42 U.S.C. § 2011, *et seq.*); the Hazardous Materials Transportation Act (49 U.S.C. § 5101, *et seq.*); the Emergency Planning and Community Right-To-Know Act (42 U.S.C. 11001, *et seq.*); the Endangered Species Act of 1973 (16 U.S.C. §1531, *et seq.*); the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701, *et seq.*); the Lead-Based Paint Exposure Reduction Act (15 U.S.C. § 2681, *et seq.*); the Safe Water Drinking Act Amendments of 1996 (42 U.S.C. § 300); the National Historic Preservation Act of 1966; the Mine Safety and Health Act (30 U.S.C. 801, *et seq.*); the Surface Mining Control and

Reclamation Act (30 U.S.C. 1201, *et seq.*) and state and local counterparts of each of the foregoing.

189. “Environmental Liquidation Trust” means, with respect to the Parent’s Plan, a trust, established and funded on the Effective Date, for the satisfaction of Environmental Liquidation Trust Claims with respect to the Designated Properties.
190. “Environmental Liquidation Trust Administration Funding” means, with respect to the Parent’s Plan, Cash that shall be disbursed to the Environmental Liquidation Trust to fund the administration costs and expenses of the Environmental Liquidation Trust, as listed on **Parent’s Plan Exhibit 16-A**.
191. “Environmental Liquidation Trust Assets” means, with respect to the Parent’s Plan, (a) the Designated Properties and related contracts, fixtures, and personalty, (b) the Environmental Liquidation Trust Administration Funding, and (c) the Environmental Liquidation Trust Funding.
192. “Environmental Liquidation Trust Agreement” means, with respect to the Parent’s Plan, the trust agreement for the Environmental Liquidation Trust, effective as of the Effective Date, substantially in the form attached as **Parent’s Plan Exhibit 17** to the Parent’s Plan, as it may be modified from time to time in accordance with the terms thereof.
193. “Environmental Liquidation Trust Funding” means, with respect to the Parent’s Plan, Cash that shall be disbursed to the Environmental Liquidation Trust to fund remediation and restoration of, and other environmental costs related to, the Designated Properties, as listed on **Parent’s Plan Exhibit 16-A**.
194. “Environmental Liquidation Trustee” means, with respect to the Parent’s Plan, that person appointed as trustee for the Environmental Liquidation Trust, as designated in the Confirmation Order.
195. “Environmental Reinstated Claims” means, with respect to the Parent’s Plan, Claims asserting civil liabilities arising under Environmental Law with respect to the Real Property.
196. “Environmental Trust Claims” means Claims asserting civil liabilities arising under Environmental Law with respect to the Designated Properties and/or Designated Elected Properties.
197. “Environmental Unsecured Claims” means, with respect to the Parent’s Plan, all Claims asserting civil liabilities arising under Environmental Law other than Environmental Trust Claims or Environmental Reinstated Claims.
198. “EPA” means the United States Environmental Protection Agency.
199. “ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

200. “Estate” means a bankruptcy estate created for each of the Debtors pursuant to section 541 of the Bankruptcy Code on its Petition Date.
201. “Examiner” means Michael Denis Warner in his capacity as examiner of the Debtors.
202. “Exchange Act” means the Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.
203. “Excluded Assets” means those assets which are not required for Reorganized ASARCO’s ongoing business and which are designated as such on an exhibit filed with the Bankruptcy Court no later than 10 days prior to the commencement of the Confirmation Hearing.
204. “FCR” means Judge Robert C. Pate, whom the Bankruptcy Court appointed as the legal representative for future asbestos-related claimants in the Asbestos Subsidiary Cases to represent pursuant to section 524(g) of the Bankruptcy Code any and all Persons that may assert Demands against any of the Debtors but have not presently done so, and who shall continue to serve after the Effective Date on behalf of holders of Demands and, if the Parent’s Plan is accepted by at least 75% in number of the Holders of Class 4 Claims actually voting and the Section 524(g) Treatment is accepted by the FCR, shall exercise the rights, duties and responsibilities set forth in the Section 524(g) Trust Documents.
205. “Federal Rules” means the Federal Rules of Civil Procedure, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made applicable to the Reorganization Cases.
206. “FFIC” means Fireman’s Fund Insurance Company.
207. “Final Order” means an order of a court: (a) as to which the time to appeal, petition for writ of certiorari, or otherwise seek appellate review or to move for reargument, rehearing, or reconsideration has expired and as to which no appeal, petition for writ of certiorari, or other appellate review, or proceedings for reargument, rehearing, or reconsideration shall then be pending; or (b) as to which any right to appeal, petition for certiorari, or move for reargument, rehearing, or reconsideration shall have been waived in writing by the party with such right; or (c) in the event that an appeal, writ of certiorari, or other appellate review or reargument, rehearing, or reconsideration thereof has been sought, which shall have been affirmed by the highest court to which such order was appealed, from which writ of certiorari or other appellate review or reargument, rehearing, or reconsideration was sought, and as to which the time to take any further appeal, to petition for writ of certiorari, to otherwise seek appellate review, and to move for reargument, rehearing, or reconsideration shall have expired; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure or under section 1144 of the Bankruptcy Code, or any analogous rule under the Bankruptcy Rules, may be filed with respect to such order shall not cause such order not to be a Final Order.
208. “First L/C” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the letter of credit issued in favor of ASARCO



- by ABN AMRO Bank N.V., Chicago in the amount of \$50 million, pursuant to section 4.2(a) of the New Plan Sponsor PSA.
209. “Flow Through Bonds” means the surety bonds numbered 403998, 394729, 133771, 142706, and 403855 issued by Seaboard on behalf of ASARCO, as principal, to bond ASARCO’s obligations to various Entities.
210. “Forfeited Distributions” means funds in the Undeliverable and Unclaimed Distribution Reserve that remain unclaimed or otherwise undeliverable to the Claimant entitled thereto.
211. “General Unsecured Claim” means:
- (i) **Under the Debtors’ Plan:** an Unsecured Claim that is not an Unsecured Asbestos Personal Injury Claim, a Convenience Claim, a Late-Filed Claim, or a Subordinated Claim.
  - (ii) **Under the Parent’s Plan:** an Unsecured Claim that is not a Bondholder Claim, an Asbestos Personal Injury Claim, an Environmental Unsecured Claim, an Environmental Trust Claim, an Environmental Reinstated Claim, a Late-Filed Claim, or a Subordinated Claim.
212. “Glencore” means Glencore Ltd. and its partners.
213. “Glencore Acquisition Co.” means the newly created acquisition entity that Glencore proposed to create to acquire ASARCO’s operating assets under the revised Non-Binding Indicative Offer Termsheet for ASARCO’s Operating Assets.
214. “Glossary” means this Uniform Glossary of Defined Terms, as such Glossary may be further amended, supplemented, or modified from time to time.
215. “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.
216. “Governmental Environmental Claimants” means the Governmental Authorities that hold (a) environmental Claims relating to the sites listed in Debtors’ Plan Exhibit 12(b) the Residual Environmental Claims.
217. “Governmental Unit” shall have the meaning assigned to such term by section 101(27) of the Bankruptcy Code.
218. “Grupo México” means Grupo México S.A.B. de C.V., ASARCO’s ultimate parent company.

219. “Guarantor” means, with respect to the Debtors’ Plan, Sterlite Industries (India) Ltd., an Indian limited liability company.
220. “Hayden Past Cost Settlement Agreement” means the Settlement Agreement Regarding the ASARCO Hayden Plant Site by and among the EPA and ASARCO, which resolves the United States’ Claims for past response costs incurred at the Hayden smelter and associated facilities on or before May 27, 2008.
221. “Hayden Settlement Agreement” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the Administrative Settlement Agreement and Order on Consent for Removal Action, U.S. EPA Region IX, CERCLA Docket No. 2008-09, and the Administrative Settlement Agreement and Order on Consent for Removal Action, U.S. EPA Region IX, CERCLA Docket No. 2008-13, by and among the EPA, the ADEQ, and ASARCO.
222. “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, but not limited to, asbestos or asbestos-containing material, petroleum or petroleum additive substances, polychlorinated biphenyls or sewage.
223. “Hourly Plan” means the Retirement Income Plan for Hourly-Rated Employees of ASARCO LLC.
224. “Hourly and Salaried Plans” means the Hourly Plan and the Salaried Plan.
225. “HSR Act” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.
226. “Impaired” means, when used with reference to a Claim or Interest (or Class of Claims or Interests), a Claim or Interest (or Class of Claims or Interests) that is impaired within the meaning of section 1124 of the Bankruptcy Code.
227. “Indemnification Escrow” means, with respect to the Debtors’ Plan, the escrow account in the amount of \$20 million to address Reorganized ASARCO’s anticipated indemnification obligations, pursuant to Article 11.8(b) of the Debtors’ Plan.
228. “Indenture Trustee” means each of Wilmington Trust Company, Deutsche Bank Trust Company Americas, and Wells Fargo Bank, National Association, each in their respective capacity as a trustee under the Indentures.
229. “Indenture Trustee Fee Claim” means, individually and collectively, any claim against the Debtors for any compensation, disbursements, fees, expenses, and indemnification pursuant to an Indenture, including any claim under such Indenture for the reasonable fees and expenses of an Indenture Trustee, its counsel, and any other professionals of the Indenture Trustee payable thereunder, any unpaid prepetition fees and costs of the

Indenture Trustee (including its counsel and other professionals) payable thereunder, and any claim for unpaid fees and expenses of any predecessor Indenture Trustee payable thereunder.

230. “Indentures” means, collectively, the (a) Indenture, dated as of October 1, 1994, as supplemented by the First Supplemental Indenture, dated as of February 16, 2005, by and between ASARCO LLC, successor to ASARCO Incorporated, as issuer, JPMorgan Chase Bank (formerly known as Chemical Bank), as Indenture Trustee, pursuant to which ASARCO LLC issued its 8.5% Corporate Debentures Due 2025; (b) Indenture dated as of October 1, 1998 between Lewis and Clark County, Montana and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Lewis and Clark County, Montana issued the Lewis and Clark County, Montana Environmental Facilities Revenue Bonds (ASARCO Incorporated Project) Series 1998 due 2033; (c) Indenture dated as of January 1, 1998 between Lewis and Clark County, Montana and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Lewis and Clark County, Montana issued the Lewis and Clark County, Montana Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998 due 2027; (d) Indenture dated as of October 1, 1998 between Nueces River Authority and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Nueces River Authority issued the Nueces River Authority Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998A due 2018; (e) Indenture dated as of January 1, 1998 between Nueces River Authority and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Nueces River Authority issued the Nueces River Authority Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998 due 2027; (f) Indenture dated as of January 1, 1998 between The Industrial Development Authority of the County of Gila, Arizona and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which The Industrial Development Authority of the County of Gila, Arizona issued The Industrial Development Authority of the County of Gila, Arizona Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998 due 2027; and (g) Indenture dated as of February 1, 1993 by and between ASARCO LLC, successor to ASARCO Incorporated, as Issuer and Bankers Trust Company, as Trustee, pursuant to which ASARCO LLC issued its 7.5% Debentures due 2013.
231. “Initial Administrative Claims Bar Date” means September 19, 2008, the date established by the Bankruptcy Court for filing Administrative Claims that arise after the Petition Date but prior to the Subsequent Administrative Claims Bar Date.
232. “Injunctions” means any Discharge Injunction, Permanent Channeling Injunction, and/or Asbestos Insurance Company Injunction issued by the Bankruptcy Court and/or the District Court in the Reorganization Cases.
233. “Insurance Neutrality Order” means the Bankruptcy Court’s May 29, 2008 Order Extending Scope of Insurance Neutrality Addendum Attached to Order Approving Compromise and Settlement Regarding Resolution of Derivative Asbestos Claims.

234. “Intercompany Claims” means any Claims held by one Debtor, CBRI, or Silver Bell against another Debtor, CBRI, or Silver Bell.
235. “Interest” means the rights of the holders of the equity securities of any of the Debtors and the rights of any Entity to purchase or demand the issuance of any equity security of such Debtor, including (a) redemption, conversion, exchange, voting, participation, and dividend rights, (b) liquidation preferences, and (c) stock options and warrants.
236. “Interior” means the United States Department of the Interior.
237. “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended.
238. “Inventory” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the inventories of raw materials, in-process and finished products of the Business, including, supplies, materials, and spare parts but excluding, to the extent owned by a Seller, materials provided to a Seller pursuant to Tolling Arrangements or Exchange Arrangements (as such term is defined in Exhibit E to the New Plan Sponsor PSA).
239. “Investment Company Act” means the Investment Company Act of 1940, as amended, together with the rules and regulations promulgated thereunder.
240. “IRS” means the Internal Revenue Service.
241. “LAQ” means Lac d’Amiante du Québec Ltée., a Delaware corporation and one of the Asbestos Subsidiary Debtors.
242. “Late-Filed Claims” means those Unsecured Claims evidenced by Proofs of Claim filed after the applicable Bar Date but on or prior to the Voting Record Date. “Late-Filed Claims” do not include Asbestos Personal Injury Claims (or Demands) that are filed after the applicable Bar Date.
243. “Law” means any federal, tribal, state or local or provincial law (including common law), statute, code, ordinance, rule, regulation, executive order, Final Order, administrative or judicial decision, judgment or decree or other requirement enacted, promulgated, issued or entered by a Governmental Authority.
244. “Leasehold Property” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means all leases, subleases, licenses, or other agreements relating to the occupancy of real property identified in section 3.1(e)(i) of the Disclosure Schedule, together with all of the Sellers’ right, title, and interest in and to all fixtures and improvements located thereon and all appurtenances, rights, easements, rights-of-way, and other interests incidental thereto, leased, subleased, licensed, or occupied by the Sellers and used or held for use in the Business.
245. “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.

246. “Lehman Brothers” means Lehman Brothers Inc.
247. “Letters of Credit” with respect to the Debtors’ Plan, shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means, collectively, the First L/C, the Second L/C, and the Third L/C.
248. “Liabilities” means any and all debts, losses, liabilities, claims (including Claims), damages, Demands, 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).
249. “LIBOR” means London interbank offered rate of interest.
250. “Lien” means, with respect to any asset or property, any mortgage, lien, deed of trust, pledge, charge, security interest, encumbrance, attachment, levy or other security device of any kind pertaining to, or affecting such asset or property.
251. “Liquidation Analysis” means the Debtors’ liquidation analysis attached as **Exhibit E** to the Debtors’ Disclosure Statement and the Parent’s liquidation analysis attached as **Exhibit D** to the Parent’s Disclosure Statement.
252. “Litigation Claims” means, with respect to the Parent’s Plan, any of the Debtors’ causes of action which shall vest in Reorganized ASARCO on the Effective Date, as listed on or **Parent’s Plan Exhibit 9**.
253. “Litigation Trust” means, with respect to the Debtors’ Plan, that certain litigation trust to be formed on the Effective Date pursuant to the Litigation Trust Agreement.
254. “Litigation Trust Agreement” means, with respect to the Debtors’ Plan, the form of trust agreement, effective as of the Effective Date, substantially in the form attached as **Debtors’ Plan Exhibit 4**.
255. “Litigation Trust Assets” means, with respect to the Debtors’ Plan, the Litigation Trust Claims and Litigation Trust Expense Fund.
256. “Litigation Trust Beneficiaries” means, with respect to the Debtors’ Plan, the holders of Litigation Trust Interests.
257. “Litigation Trust Board” means, with respect to the Debtors’ Plan, the group of Persons selected in accordance with the provisions of the Litigation Trust Agreement.
258. “Litigation Trust Claims” means, with respect to the Debtors’ Plan, the claims listed on **Debtors’ Plan Exhibit 14**.

259. “Litigation Trust Expense Fund” means, with respect to the Debtors’ Plan, Cash in the amount of [ \$\_\_\_ ] million to be transferred to the Litigation Trustee by the Debtors on the Effective Date, together with all additions thereto in accordance with the Litigation Trust Agreement, in order to fund the operations of the Litigation Trust.
260. “Litigation Trust Interests” means, with respect to the Debtors’ Plan, beneficial interests in the Litigation Trust.
261. “Litigation Trust Register” means, with respect to the Debtors’ Plan, the register maintained by the Litigation Trustee with the names, addresses, and number of Litigation Trust Interests of the Litigation Trust Beneficiaries.
262. “Litigation Trust Registrar” means, with respect to the Debtors’ Plan, the Entity appointed by the Litigation Trustee for the purpose of recording ownership of the Litigation Trust Interests.
263. “Litigation Trust Tax Owners” means, with respect to the Debtors’ Plan, the Litigation Trust Beneficiaries and Reorganized ASARCO (to the extent of its retained interest in the Litigation Trust for federal income tax purposes).
264. “Litigation Trustee” means, with respect to the Debtors’ Plan, the Person appointed as trustee of the Litigation Trust under the Litigation Trust Agreement and any successor thereto chosen in accordance with such agreement.
265. “LLC Agreement” means the Amended and Restated Limited Liability Company Agreement of ASARCO LLC, approved by the Bankruptcy Court on December 15, 2005, as may be subsequently amended, modified, or supplemented.
266. “Madera Property” means the real property owned by ASARCO in Madera Canyon, Santa Cruz County, Arizona, which shall vest in Reorganized Covington pursuant to the Debtors’ Plan.
267. “Manipulative Breach” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means an intentional and willful material breach by ASARCO of its obligations under sections 8.2(d) (but only as it relates to Sold Assets other than Inventory or Included Receivables (as such term is defined in Exhibit E to the New Plan Sponsor PSA)), 8.7(a), (b), and (d), or 8.10(b) and (d) of the New Plan Sponsor PSA that gives rise to a termination right pursuant to section 13.1(j) thereof and such act or omission giving rise to such breach was performed with the intent to materially breach the New Plan Sponsor PSA and to prevent the Closing thereunder, as determined by the Bankruptcy Court, after notice and opportunity to be heard, which may be on an expedited basis.
268. “Master Ballot” means the Ballot prepared for submission by an attorney on behalf of Unsecured Asbestos Personal Injury Claimants, or by a Nominee on behalf of Bondholder.

269. “MDEQ” means the State of Montana ex rel. the Montana Department of Environmental Quality.
270. “Miscellaneous Federal and State Environmental Claims” means, with respect to the Debtors’ Plan, those Claims filed by a federal or state government in the Reorganization Cases and addressed by the Miscellaneous Federal and State Environmental Settlement Agreement.
271. “Miscellaneous Federal and State Environmental Settlement Agreement” means, with respect to the Debtors’ Plan, the settlement agreement between ASARCO and holders of Miscellaneous Federal and State Environmental Claims.
272. “Miscellaneous Debtors’ Plan Administration Accounts” means, with respect to the Debtors’ Plan, the Disputed Claims Reserve, the Unpaid Cure Claims Reserve, the Disputed Secured Claims Reserve, the Prepetition ASARCO Environmental Trust Escrow, the Indemnification Escrow, the Undeliverable and Unclaimed Distribution Reserve, and the Vested Causes of Action Proceeds.
273. “Miscellaneous Parent’s Plan Administration Accounts” means, with respect to the Parent’s Plan, the Disputed Claims Reserve and the Undeliverable and Unclaimed Distribution Reserve, and such other general accounts as the Parent’s Plan Administrator deems necessary and appropriate.
274. “Mission Mine Leases” means the two mining leases and 21 business leases between ASARCO’s predecessor in interest and the Secretary of the Interior, relating to the Mission Mine.
275. “Mission Mine Settlement Agreement” means the settlement agreement among ASARCO, the Nation, the San Xavier District, the San Xavier Allottees Association, and the United States, as amended, attached to the Debtors’ Plan as **Debtors’ Plan Exhibit 15**.
276. “Mission Mine Unexpired Agreements” means, with respect to the Debtors’ Plan, the agreements that ASARCO assumed in the Mission Mine Settlement Agreement and which are to be assigned to the Debtors’ Plan Sponsor pursuant to the Debtors’ Plan.
277. “Missouri Guaranty Corporation” means the Missouri Private Sector Individual Self-Insurers Guaranty Corporation.
278. “Mitsui” means Mitsui & Co. (U.S.A.), Inc., a New York corporation.
279. “Montana DLI” means the Montana Department of Labor and Industry’s Division of Employee Relations.
280. “Montana Guaranty Fund” means the Montana Self-Insurers Guaranty Fund.
281. “MRI” means Montana Resources, Inc.

282. “MRI Litigation” means the claims and causes of action of the Debtors asserted in Adversary No. 07-02024, pending in the Bankruptcy Court.
283. “MR Partnership” means Montana Resources general partnership, a Montana-based, mining-operations partnership in which ASARCO and MRI were partners.
284. “Nation” means the Tohono O’odham Nation.
285. “New Equity Interests” means, with respect to the Parent’s Plan, 100% of the equity interests in Reorganized ASARCO, to be delivered to ASARCO USA Incorporated or its designee on the Effective Date in exchange for the Parent Contribution.
286. “New Plan Sponsor PSA” means, with respect to the Debtor’s Plan, the Settlement and Purchase and Sale Agreement dated as of March 6, 2009, among ASARCO, ARSB, CBRI, Santa Cruz, the Debtors’ Plan Sponsor, and the Guarantor, attached to the Disclosure Statement as Exhibit M.
287. “Nominee” means any broker, dealer, commercial bank, trust company, savings and loan, financial institution, or other party in whose names the Bonds are registered or held of record on behalf of the holder of the beneficial interest therein.
288. “Non-Debtor Sellers” means ARSB, CBRI, and Santa Cruz.
289. “Non-Environmental Unsecured Claimants” means, with respect to the Debtors’ Plan, all holders of Claims in Class 3 other than Governmental Environmental Claimants.
290. “Non-Target Properties” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means all real property that is not (a) a Real Property or (b) a Silver Bell Property.
291. “Order” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means any final and non-appealable order, injunction, judgment, stipulation, decree, ruling, writ, assessment, or arbitration award issued by a Governmental Authority or any legally binding and enforceable conciliation or settlement agreement with any Governmental Authority.
292. “Ordinary Course of Business” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the ordinary conduct of business of the Sellers, taken as a whole, relating to the Business, either (a) consistent with past practice during the pendency of and, as applicable, taking into account the Bankruptcy Cases (as such term is defined in the New Plan Sponsor PSA), or (b) consistent with reasonably prudent management of the Business (as determined by the board of directors in its business judgment) in response to economic and industry conditions.
293. “Original Plan Sponsor PSA” means the Purchase and Sale Agreement dated as of May 30, 2008, among ASARCO, ARSB, CBRI, Santa Cruz, the Debtors’ Plan Sponsor, and the Guarantor.



294. “Other Subsidiary Debtors” means the Subsidiary Debtors other than the Asbestos Subsidiary Debtors.
295. “Owned Strategic Properties” means, with respect to the Parent’s Plan, the real property listed in **Parent’s Plan Exhibit 15** to the Parent’s Plan.
296. “Paid in Full” means, with respect to the Parent’s Plan, paid in Cash the Allowed Amount of the holder’s Claim.
297. “Parent” means ASARCO Incorporated and AMC.
298. “Parent Contribution” means Cash and/or an Acceptable Letter of Credit provided by the Parent in the aggregate amount of \$1.3 billion.
299. “Parent’s Plan” means ASARCO Incorporated and Americas Mining Corporation’s Third Amended Parent’s Plan of Reorganization for the Debtors Under Chapter 11 of the United States Bankruptcy Code, and all exhibits attached thereto or referenced therein, as the same may be amended, modified, or supplemented.
300. “Parent’s Plan Administration Account” means the bank account(s) that the Parent’s Plan Administrator shall establish and which shall contain funds sufficient to pay the Parent’s Plan Administrator’s estimated compensation and expenses and the costs of administration of the Parent’s Plan. The Parent’s Plan Administration Account is in addition to any general accounts established by the Parent’s Plan Administrator and the Miscellaneous Parent’s Plan Administration Accounts.
301. “Parent’s Plan Administration Agreement” means the form of agreement with the Parent’s Plan Administrator, effective as of the Effective Date, substantially in the form attached as **Parent’s Plan Exhibit 4** to the Parent’s Plan, as it may be modified from time to time in accordance with the terms thereof.
302. “Parent’s Plan Administrator” means the Entity that shall make distributions under the Parent’s Plan to Claimants (other than the Asbestos Personal Injury Claimants), handle any objections to such Claimants’ Claims, and perform the other work assigned to such Entity by the Parent’s Plan, the Parent’s Plan Administration Agreement, or the Confirmation Order.
303. “Parent’s Plan Documents” means the Parent’s Plan, the Disclosure Statement, and all documents, attachments, and exhibits attached to the Parent’s Plan or the Disclosure Statement that aid in effectuating the Parent’s Plan, including, without limitation, the Section 524(g) Trust Documents, as the same may be amended, modified, or supplemented, in accordance with their terms.
304. “Parent Pledge Agreement” means a pledge and security agreement, substantially in the form attached as **Parent’s Plan Exhibit 14** to the Parent’s Plan, delivered to the Section 524(g) Trust by ASARCO USA Incorporated to secure Reorganized ASARCO’s performance under the ASARCO Note.

305. “PBGC” means the Pension Benefit Guaranty Corporation.
306. “Pension Plan” means each Employee Benefit Plan that is an “employee pension benefit plan” within the meaning of section 3(2) of ERISA, and is a “defined benefit plan” as defined in section 3(35) of ERISA.
307. “Permanent Channeling Injunction” means the injunction set forth in Article 11.3(a) of the Debtors’ Plan or Article 11.3(a) of the Parent’s Plan, as applicable.
308. “Permitted Liens” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means (a) all Liens set forth in section 1.1A of the Disclosure Schedule; (b) statutory Liens for current taxes, assessments, or other governmental charges not yet delinquent or the amount or validity of which is being contested in good faith by appropriate proceedings, to the extent that a reserve has been established therefore or such amount has been deposited with the appropriate Governmental Authority or other adjudicating Person (as such term is defined in the New Plan Sponsor PSA); (c) mechanic’s, materialman’s, warehouseman’s, carrier’s, and similar liens for labor, materials, or supplies, as would not reasonably be expected to have, individually or in the aggregate, a Seller Material Adverse Effect; (d) purchase money security interests arising in the Ordinary Course of Business; (e) any Lien arising out of a Tolling Arrangement or Exchange Arrangement (as such term is defined in Exhibit E to the New Plan Sponsor PSA), to the extent not arising out of a breach of such Tolling Arrangement or Exchange Arrangement; (f) rights of landlords in respect of any Leasehold Property where the applicable lease is not in default; (g) any Lien that, pursuant to section 363(f) of the Bankruptcy Code, will be released upon entry of the Plan Confirmation Order; and (h) such other Liens as would not reasonably be expected to have, individually or in the aggregate, a Seller Material Adverse Effect.
309. “Person” means any person, individual, partnership, corporation, limited liability company, joint venture company, association or other entity or being of whatever kind, whether or not operating or existing for profit, including, without limitation, any “person” as such term is defined in section 101(41) of the Bankruptcy Code, but excluding any Governmental Authority.
310. “Petition Date” means, as to each of the Debtors, the date on which such entity’s bankruptcy case was commenced with the filing of a voluntary petition for relief under chapter 11 of the Bankruptcy Code.
311. “Plan Confirmation Order” means:
- (i) **Under the Debtors’ Plan:** an order of the Court confirming the Debtors’ Plan. 1. With respect to the Debtors’ Plan, “Plan Confirmation Order” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means an order of the Bankruptcy Court or the United States District Court that has jurisdiction over the Bankruptcy Cases (as such term is defined in the New Plan Sponsor PSA), that, to the extent the order relates to the New Plan Sponsor PSA, the

Debtors' Plan Sponsor (and the Guarantor), or the transactions contemplated thereunder is reasonably satisfactory to the Debtors' Plan Sponsor, and in a form acceptable to the Sellers in all respects, approving the New Plan Sponsor PSA and all of the terms and conditions thereof, and approving and authorizing the Sellers to consummate the transactions contemplated thereby, including the transfer of the Sold Assets to the Debtors' Plan Sponsor. The Plan Confirmation Order shall find and provide, among other things, that (a) the transfer of the Sold Assets by the Sellers to the Debtors' Plan Sponsor pursuant to the New Plan Sponsor PSA (1) will be legal, valid, and effective transfers of the Sold Assets; (2) will vest the Debtors' Plan Sponsor with all right, title, and interest of the Sellers in and to the Sold 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); (3) constitute transfers for reasonably equivalent value and fair consideration under the Bankruptcy Code and under Applicable Law; and (4) qualifies for exemption under section 1146(c) of the Bankruptcy Code such that Transaction Taxes (as such term is defined in the New Plan Sponsor PSA) will be exempted pursuant to, and to the fullest extent allowed by, section 1146(c) of the Bankruptcy Code; (b) the transactions contemplated by the New Plan Sponsor PSA are undertaken by the Debtors' Plan Sponsor and ASARCO at arm's length, without collusion, and in good faith within the meaning of section 363(m) of the Bankruptcy Code; (c) ASARCO has complied with the notice requirements of Rules 2002, 6004, 6006, and 9014 of the Bankruptcy Rules and any applicable rules of the Bankruptcy Court with respect to the transactions contemplated by the New Plan Sponsor PSA, the Ancillary Agreements, and by all other agreements, documents, and instruments contemplated in connection with the New Plan Sponsor PSA; (d) ASARCO has satisfied all of the requirements of, and are authorized pursuant to, sections 363(b) and (f) of the Bankruptcy Code to enter into the New Plan Sponsor PSA and to consummate the transactions contemplated thereby; and (e) present and future asbestos claims and demands are enjoined from being asserted against ASARCO; ASARCO's officers, directors, and Subsidiaries; the Debtors' Plan Sponsor, the Guarantor, and the Sold Assets (and against any officer, director, Affiliate, or assets of the Debtors' Plan Sponsor or Guarantor) pursuant to a channeling injunction issued in compliance with section 524(g) of the Bankruptcy Code.

(ii) **Under the Parent's Plan**: an order of the Court confirming the Parent's Plan.

312. "Plan Consideration" means, with respect to the Debtors' Plan, (a) the Available Plan Funds remaining after Allowed Administrative Claims, Priority Tax Claims, and Claims in Classes 1, 2, 4, and 5 have been paid pursuant to the Debtors' Plan; (b) the Litigation Trust Interests; (c) the SCC Litigation Trust Interests; and (d) the Residual Assets Liquidation Trust Interests.
313. "Post-524(g) Indemnity" means the Post-524(g) Indemnity provided for in paragraphs III.B and III.C of the Asbestos Insurance Settlement Agreement.

314. “Pre-524(g) Indemnity” means the Pre-524(g) Indemnity provide for in paragraph III.A of the Asbestos Insurance Settlement Agreement
315. “Prepetition ASARCO Environmental Trust” means the trust created pursuant to the Consent Decree entered in *United States v. ASARCO Inc., et al.*, Civil Action No. 02-2079, filed in the United States District Court for the District of Arizona. The trust is primarily funded by a promissory note due May 31, 2010 in the original principal sum of \$100,000,000 from AMC and guaranteed by Grupo México. The current principal balance of the note is approximately \$25 million.
316. “Prepetition ASARCO Environmental Trust Escrow” means the escrow account established pursuant to Article 10.8(c) of the Debtors’ Plan.
317. “Previously Settled Environmental Claims” means those Claims filed by a federal or state government, an Indian tribe, or a PRP in the Reorganization Cases and listed on a site-by-site basis in **Debtors’ Plan Exhibit 11-A**.
318. “Previously Settled Environmental Sites” means the sites relating to the Previously Settled Environmental Claims.
319. “Priority Claim” means any Claim (other than an Administrative Claim or a Priority Tax Claim) to the extent such Claim is entitled to a priority in payment under section 507(a) of the Bankruptcy Code.
320. “Priority Tax Claim” means any Claim to the extent that such Claim is entitled to a priority in payment under section 507(a)(8) of the Bankruptcy Code.
321. “Privileges” means any attorney-client privilege, work-product privilege or other privilege or immunity attaching to any documents or communications (whether written or oral).
322. “Pro Rata” means the ratio of the amount of a particular Claim to the aggregate amount of Claims in that Claims’ Class.
323. “Professional Persons” means Persons retained by any of the Debtors to be compensated under sections 327, 328, 330, 503(b), and 1102 of the Bankruptcy Code.
324. “Proof of Claim” means any proof of claim filed with the Bankruptcy Court or the Claims Agent with respect to any of the Debtors pursuant to section 501 of the Bankruptcy Code and Bankruptcy Rules 3001 or 3002.
325. “Property of the Estate” means all property in which any of the Debtors holds a legal or equitable interest, including all property described in section 541 of the Bankruptcy Code.
326. “Protected Officers and Directors” means, with respect to the Debtors’ Plan, Edward R. Caine, H. Malcolm Lovett, Jr., Carlos Ruiz Sacristán, Joseph F. Lapinsky, Donald B. Mills, Douglas E. McAllister, John B. George, Gary A. Miller, Manuel E. Ramos Rada,

Thomas L. Aldrich, John D. Low, Jr., Oscar Gonzalez Barron, Russell A. Smith, William Perrell, Joseph Hitter, and any officers and directors appointed to replace one or more of them (or such replacement officer or director) prior to the Effective Date; provided, however, that the term “Protected Officers and Directors” does not include the named defendants in the Derivative D&O Litigation, the Burns Litigation, or the SCC Litigation.

327. “PRP” means a non-governmental Entity that has asserted a Claim against any of the Debtors for one or more environmental clean-up sites, including any non-governmental Entity that is co-liable with such Debtor for such a claim.
328. “PRP-Only Environmental Claims” means Claims filed by PRPs in the Reorganization Cases that assert Liabilities arising under Environmental Law and that are not included within Previously Settled Environmental Claims. These Claims are classified as Class 5 General Unsecured Claims under the Parent’s Plan.
329. “Purchase Price” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means an amount equal to: (a) \$1.1 billion, plus (b) the Debtors’ Plan Sponsor Promissory Note.
330. “Purchased Real Property” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the real property identified in section 3.1(c) of the Disclosure Schedule, including all mines, dumps, impoundments, leach pads, tailings, buildings, plants, warehouses, railroad tracks, rights of way, easements, facilities, and other improvements and fixtures thereon and appurtenances thereto and all mining rights, mineral rights, mineral claims, riparian rights, water rights, water claims, water allocations, and water delivery contracts associated therewith.
331. “Purchaser Breach” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means a material breach by the Debtors’ Plan Sponsor or the Guarantor of any of their respective representations, warranties, or covenants or other agreements under the New Plan Sponsor PSA.
332. “Qualified Bank” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only 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 the Sellers.
333. “RCRA” means the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901, *et seq.*

334. “Real Property”:

(i) **Under the Debtors’ Plan:** shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means, collectively, the Leasehold Property and the Purchased Real Property.

(ii) **Under the Parent’s Plan:** means the real property retained by Reorganized ASARCO under the Parent’s Plan, including, without limitation, the Owned Strategic Properties listed in **Parent’s Plan Exhibit 15** to the Parent’s Plan.

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

336. “Reinstated” or “Reinstatement” means:

(i) **Under the Debtors’ Plan:** a Claim or an Interest unimpaired within the meaning of section 1124 of the Bankruptcy Code.

(ii) **Under the Parent’s Plan:** leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the holder thereof so as to leave the Claim unimpaired in accordance with section 1124 of the Bankruptcy Code, thereby entitling the holder of the Claim to (but not more than): (a) reinstatement of the original maturity of the obligations on which its Claim is based; and (b) payment, as provided herein, of an amount of Cash consisting solely of the sum of (i) matured but unpaid principal installments, without regard to any acceleration of maturity, accruing prior to the Effective Date, (ii) accrued but unpaid interest as of the Petition Date, or (iii) reasonable fees, expenses, and charges to the extent such fees, expenses, and charges are Allowed under the Bankruptcy Code and are specifically provided for in the agreement or agreements on which the Claim is based; *provided, however*, that any contractual right that does not pertain to the payment when due of principal and interest on the obligation on which such Claim is based (including financial covenant ratios, negative pledge covenants, covenants or restrictions on merger or consolidation, and affirmative covenants regarding corporate existence and prohibiting certain transactions or actions contemplated by the Parent’s Plan, or conditioning such transactions or actions on certain factors) shall not be required to be reinstated in order to accomplish Reinstatement.

337. “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.

338. “Released Litigation” means, with respect to the Parent’s Plan, all causes of actions or suits identified on **Parent’s Plan Exhibit 2** to the Parent’s Plan, which shall be released as settled on the Effective Date.

339. “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.

340. “Reorganization Cases” means the proceedings before the Bankruptcy Court leading to the Confirmation of the Parent’s Plan under chapter 11 of the Bankruptcy Code.
341. “Reorganized ASARCO” means:
- (i) **Under the Debtors’ Plan:** ASARCO, on or after the Effective Date, which shall be known as ASARCO Administration Company, LLC.
  - (ii) **Under the Parent’s Plan:** ASARCO and/or any of its successors, successors-in-interest, and assigns (by merger, assignment of assets, consolidation, operation of law, or otherwise, including any Entity or Entities designated as successor or successor-in-interest in the Confirmation Order), on or after the Effective Date.
342. “Reorganized Covington” means, with respect to the Debtors’ Plan, Covington, on or after the Effective Date, which shall be known as The Covington Company, LLC.
343. “Reorganized Debtors” means, under the Debtors’ Plan, Reorganized ASARCO and Reorganized Covington.
344. “Request For Election” means the form or forms to be distributed to the FCR on which to indicate its election with respect to the Section 524(g) Treatment.
345. “Residual Assets” means, with respect to the Debtors’ Plan, all assets of ASARCO and the Other Subsidiary Debtors (including, without limitation, the Property of the Estate of such debtors) other than the Sold Assets, the Asbestos Trust Assets, the Litigation Trust Assets, the SCC Litigation Trust Assets, the ASARCO Residual Assets, and the Covington Residual Assets. The Residual Assets shall be transferred to the Residual Assets Liquidation Trust pursuant to the Debtors’ Plan.
346. “Residual Assets Liquidation Trust” means, with respect to the Debtors’ Plan, that certain trust to be formed on the Effective Date pursuant to the Residual Assets Liquidation Trust Agreement.
347. “Residual Assets Liquidation Trust Agreement” means, with respect to the Debtors’ Plan, the form of trust agreement, effective as of the Effective Date, substantially in the form attached as **Debtors’ Plan Exhibit 9**, as it may be modified from time to time in accordance with the terms thereof or Article 6.3 of the Debtors’ Plan.
348. “Residual Assets Liquidation Trust Beneficiaries” means, with respect to the Debtors’ Plan, the holders of Residual Assets Liquidation Trust Interests.

349. “Residual Assets Liquidation Trust Board” means, with respect to the Debtors’ Plan, the group of three Persons selected in accordance with the provisions of the Residual Assets Liquidation Trust Agreement.
350. “Residual Assets Liquidation Trust Expense Fund” means, with respect to the Debtors’ Plan, the Cash in the amount of [\$\_] million to be transferred to the Residual Assets Liquidation Trustee by the Debtors on the Effective Date, together with all additions thereto in accordance with the Residual Assets Liquidation Trust Agreement, in order to fund the operations of the Residual Assets Liquidation Trust.
351. “Residual Assets Liquidation Trust Interests” means, with respect to the Debtors’ Plan, the beneficial interests in the Residual Assets Liquidation Trust to be distributed to holders of Allowed Claims in Class 3 (and, pending resolution of Disputed Claims, the Disputed Claims Reserve).
352. “Residual Assets Liquidation Trust Proceeds” means, with respect to the Debtors’ Plan, any proceeds recovered by the Residual Assets Liquidation Trustee.
353. “Residual Assets Liquidation Trust Register” means, with respect to the Debtors’ Plan, the register maintained by the Residual Assets Liquidation Trustee with the names, addresses, and number of Residual Assets Liquidation Trust Interests of the Residual Assets Liquidation Trust Beneficiaries.
354. “Residual Assets Liquidation Trust Registrar” means, with respect to the Debtors’ Plan, the Entity appointed by the Residual Assets Liquidation Trustee for the purpose of recording ownership of the Residual Assets Liquidation Trust Interests.
355. “Residual Assets Liquidation Trust Tax Owners” means, with respect to the Debtors’ Plan, the Residual Assets Liquidation Trust Beneficiaries and Reorganized ASARCO (to the extent of its retained interest in the Residual Assets Liquidation Trust for federal income tax purposes).
356. “Residual Assets Liquidation Trustee” means, with respect to the Debtors’ Plan, the Person appointed as trustee of the Residual Assets Liquidation Trust under the Residual Assets Liquidation Trust Agreement and any successor thereto chosen in accordance with such agreement.
357. “Residual Environmental Claims” means, with respect to the Debtors’ Plan, those Claims of the United States and the States of Washington and Nebraska asserting civil liabilities addressed by the Residual Environmental Settlement Agreement.
358. “Residual Environmental Settlement Agreement” means, with respect to the Debtors’ Plan, the settlement agreement between ASARCO and holders of Residual Environmental Claims.
359. “Residual Environmental Settlement Sites” means, with respect to the Debtors’ Plan, the state and federal sites relating to the Residual Environmental Claims.



360. “Retained Books and Records” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means (a) any Books and Records (as such term is defined in the New Plan Sponsor PSA) to the extent relating to any Excluded Assets or Retained Liabilities; (b) any Books and Records to the extent related or pertaining to asbestos or asbestos-containing materials or products or to asbestos personal injury claims or demands against the Sellers, including claims which have been litigated, settled, or otherwise dealt with by the Sellers or any one of the Sellers; and (c) bids, letters of intent, expressions of interest, or other proposals received in connection with the transactions contemplated by the Original Plan Sponsor PSA, the New Plan Sponsor PSA, or any of the Ancillary Agreements or otherwise and information and analyses relating to such communications.
361. “Retained Liabilities” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means any Liabilities of the Sellers, other than those that are expressly assumed by the Debtors’ Plan Sponsor under the New Plan Sponsor PSA as Assumed Liabilities, including, without limitation, those Liabilities of the Sellers set forth in section 3.4(a) through (h) of the New Plan Sponsor PSA.
362. “Rosemont Ranch Defendants” Rosemont Ranch, LLC; TWW Investments, LLC; DAS Holdings, LLC; Habibi, LLC; West Santa Rita Land, LLC; and Lazy Y I Ranch, LLC.
363. “Salaried Plan” means the Retirement Benefit Plan for Salaried Employees of ASARCO LLC.
364. “Santa Cruz” means ASARCO Santa Cruz, Inc., a Delaware corporation.
365. “SCC” means Southern Copper Corporation (f/k/a Southern Peru Copper Company).
366. “SCC Final Judgment” means the final judgment entered in the SCC Litigation on April 15, 2009.
367. “SCC Litigation” means the claims and causes of action of the Debtors asserted in Civil Action Nos. 07-00018 and 07-00203, both pending in the District Court.
368. “SCC Litigation Proceeds” means, with respect to the Debtors’ Plan, the proceeds from the prosecution, compromise, and settlement of the SCC Litigation Trust Claims, which shall be an asset of the SCC Litigation Trust and held as part thereof.
369. “SCC Litigation Purchase Price” means, with respect to the Debtors’ Plan, the dollar value (as determined by ASARCO) of the consideration paid by an SCC Purchaser for Class C SCC Litigation Trust Interests.
370. “SCC Litigation Trust” means, with respect to the Debtors’ Plan, that certain litigation trust to be formed on the Effective Date pursuant to the SCC Litigation Trust Agreement.
371. “SCC Litigation Trust Agreement” means, with respect to the Debtors’ Plan, the form of trust agreement, effective as of the Effective Date, substantially in the form attached as

**Debtors' Plan Exhibit 5**, as it may be modified from time to time in accordance with the terms thereof or Article 6.2 of the Debtors' Plan.

372. "SCC Litigation Trust Beneficiaries" means, with respect to the Debtors' Plan, the holders of SCC Litigation Trust Interests.
373. "SCC Litigation Trust Board" means, with respect to the Debtors' Plan, the group of three Persons selected in accordance with the provisions of the SCC Litigation Trust Agreement.
374. "SCC Litigation Trust Claims" means, with respect to the Debtors' Plan, the Litigation Claims that are transferred to the SCC Litigation Trust pursuant to the Debtors' Plan as listed on **Debtors' Plan Exhibit 14-C**.
375. "SCC Litigation Trust Expense Fund" means, with respect to the Debtors' Plan, the Cash in the amount of [\$\_\_] million to be transferred to the SCC Litigation Trustee by the Debtors on the Effective Date, together with all additions thereto in accordance with the SCC Litigation Trust Agreement, in order to fund the operations of the SCC Litigation Trust.
376. "SCC Litigation Trust Interests" means, with respect to the Debtors' Plan, the beneficial interests in the SCC Litigation Trust to be distributed to holders of Allowed Claims in Class 3 (and, pending resolution of Disputed Claims, the Disputed Claims Reserve).
377. "SCC Litigation Trust Register" means, with respect to the Debtors' Plan, the register maintained by the SCC Litigation Trustee with the names, addresses, and number of SCC Litigation Trust Interests of the SCC Litigation Trust Beneficiaries.
378. "SCC Litigation Trust Registrar" means, with respect to the Debtors' Plan, the Entity appointed by the SCC Litigation Trustee for the purpose of recording ownership of the SCC Litigation Trust Interests.
379. "SCC Litigation Trust Tax Owners" means, with respect to the Debtors' Plan, the SCC Litigation Trust Beneficiaries and Reorganized ASARCO (to the extent of its retained interest in the SCC Litigation Trust for federal income tax purposes).
380. "SCC Litigation Trustee" means, with respect to the Debtors' Plan, the Person appointed as trustee of the SCC Litigation Trust under the SCC Litigation Trust Agreement and any successor thereto chosen in accordance with such agreement.
381. "SCC Purchaser Percentage" means, with respect to the Debtors' Plan, the aggregate percentage of SCC Litigation Trust Interests sold to the SCC Purchasers at the auction.
382. "SCC Purchasers" means, with respect to the Debtors' Plan, the purchasers of SCC Litigation Trust Interests pursuant to the auction of such interests which may be held by the Debtors in their sole discretion.

383. “SCC Stock” means all of the stock in any form (including any stock splits or other reformulations) that is traceable to the 54.2 percent of SCC shares owned by ASARCO or SPHC on March 30, 2003.
384. “SCF” means the Arizona State Compensation Fund.
385. “Schedules” means the schedules, statements, and lists filed by the Debtors with the Bankruptcy Court pursuant to Bankruptcy Rule 1007, as may be amended or supplemented from time to time.
386. “Section 524(g) Treatment” means, with respect to any Claim or Demand, the liquidation and payment of such Claim or Demand in accordance with, and pursuant to, section 4.2(d) of the Parent’s Plan and Section 524(g) Trust Distribution Procedures.
387. “Section 524(g) Trust” means, with respect to the Parent’s Plan, a trust established in accordance with section 524(g) of the Bankruptcy Code, as set forth in Article VI of the Parent’s Plan.
388. “Section 524(g) Trust Advisory Committee” means, with respect to the Parent’s Plan, the Section 524(g) Trust Advisory Committee created pursuant to the Parent’s Plan and the Section 524(g) Trust Agreement, as may be reconstituted from time to time in accordance with the terms thereof.
389. “Section 524(g) Trust Agreement” means, with respect to the Parent’s Plan, the Trust Agreement for the Section 524(g) Trust, effective, as of the Effective Date, substantially in the form attached as **Parent’s Plan Exhibit 11** to the Parent’s Plan, as it may be modified from time to time in accordance with the terms thereof.
390. “Section 524(g) Trust Assets” means, with respect to the Parent’s Plan, (a) Cash in the amount of \$500 million; (b) the ASARCO Note; (c) the ASARCO Security Agreement; (d) the ASARCO Deed of Trust; (e) the Parent Pledge Agreement; (f) directly or indirectly, the Asbestos Insurance Recoveries; and (g) Cash in the amount of \$27.5 million to administer the Section 524(g) Trust (which shall be allowed and treated as an Administrative Claim).
391. “Section 524(g) Trust Beneficiaries” means, with respect to the Parent’s Plan, the holders of Asbestos Personal Injury Claims and Demands.
392. “Section 524(g) Trust Cooperation Agreement” means, with respect to the Parent’s Plan, a cooperation agreement between the Parent and the Asbestos Trust, in the form attached to the Section 524(g) Trust Agreement.
393. “Section 524(g) Trust Distribution Procedures” means, with respect to the Parent’s Plan, the Section 524(g) Trust distribution procedures, substantially in the form attached to the Section 524(g) Trust Agreement, as such procedures may be modified from time to time in accordance with the terms thereof, the Section 524(g) Trust Agreement, and the Parent’s Plan.

394. “Section 524(g) Trust Documents” means, with respect to the Parent’s Plan, the Section 524(g) Trust Agreement, the Section 524(g) Trust Distribution Procedures, and the other agreements, instruments, and documents governing the establishment, administration, and operation of the Section 524(g) Trust, as they may be amended or modified from time to time in accordance with the Parent’s Plan and the terms of such documents.
395. “Section 524(g) Trust Expenses” means, with respect to the Parent’s Plan, any Liabilities, costs or expenses of, or imposed upon, assumed by, or in respect of, the Section 524(g) Trust, except for payments to holders of Asbestos Personal Injury Claims and Demands on account of such Asbestos Personal Injury Claims and Demands.
396. “Section 524(g) Trustees” means, with respect to the Parent’s Plan, the individuals appointed as trustees of the Section 524(g) Trust under the Section 524(g) Trust Agreement and any successor thereto chosen in accordance with the Section 524(g) Trust Agreement.
397. “Seaboard” means Seaboard Surety Company.
398. “SEC” means the Securities and Exchange Commission.
399. “Second L/C” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the letter of credit issued in favor of ASARCO by ABN AMRO Bank N.V., Chicago in the amount of \$50 million, pursuant to section 4.2(b) of the New Plan Sponsor PSA.
400. “Secured Asbestos Personal Injury Claim” means an Asbestos Personal Injury Claim that is secured by a valid, perfected, and enforceable Lien against proceeds of an Asbestos Insurance Policy.
401. “Secured Claim” means any Claim that is (a) secured in whole or part, as of the Petition Date, by a Lien against property of any of the Debtors that is valid, perfected, and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable nonbankruptcy law or (b) subject to setoff under section 553 of the Bankruptcy Code; provided, however, with respect to both (a) and (b) above, a Claim is a Secured Claim only to the extent of the value, net of any senior Lien, of the Estate’s interest in the assets or property securing any such Claim or the amount subject to setoff, as the case may be.
402. “Secured Intercompany DIP Credit Facility” means the secured debtor-in-possession term loan credit facility of up to \$10 million from ASARCO to the Asbestos Subsidiary Debtors.
403. “Seller Material Adverse Effect” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means (a) a material adverse effect on the financial condition of the Business (to the extent related to the Sold Assets and Assumed Liabilities) or the condition of the Sold Assets, taken as a whole, or (b) any change, circumstance, or event that, individually or in the aggregate, would materially hinder or materially and adversely

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

404. "Sellers" means, with respect to the Debtors' Plan, ASARCO and the Non-Debtor Sellers, each of which is, individually, a "Seller."
405. "Settling Asbestos Insurance Company" means any Asbestos Insurance Company that has entered into an Asbestos Insurance Settlement Agreement approved by the Bankruptcy Court as of the Effective Date. The Asbestos Insurance Settlement Agreements are listed on **Debtors' Plan Exhibit 7**, as amended or supplemented.
406. "Subclass" means a subclass within a Class of Claims or Interests.
407. "Silver Bell" means Silver Bell Mining, L.L.C., a Delaware limited liability company.
408. "Silver Bell Interests" shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the limited liability company interests of Silver Bell owned by any Seller.
409. "Silver Bell LLC Agreement" means that certain membership interest agreement, dated February 5, 1996, among Ginrei, Inc., MSB Copper Corp., and ARSB, as amended.

410. “Silver Bell Property” shall have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means all real property owned or leased by Silver Bell.
411. “Sold Assets” means, with respect to the Debtors’ Plan, the “Purchased Assets” as defined in the New Plan Sponsor PSA and identified in section 3.1 thereof, and are substantially all of the tangible and intangible operating assets of ASARCO and the Non-Debtor Sellers.
412. “SPHC” means Southern Peru Holdings, LLC.
413. “SPT” means Seaboard and St. Paul Fire.
414. “SPT Indemnity Agreement” means the General Agreement of Indemnity dated October 19, 1993, which was executed by ASARCO and delivered to Seaboard and St. Paul Fire.
415. “SPT Settlement Agreement” means the settlement agreement between ASARCO, Seaboard Surety Company, and St. Paul Travelers and Marine Insurance Company.
416. “St. Paul Fire” means St. Paul Fire and Marine Insurance Company.
417. “Stand-Alone Plan” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means a plan of reorganization sponsored by a Person (as such term is defined in the New Plan Sponsor PSA) other than the Debtors’ Plan Sponsor or the 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 the New Plan Sponsor PSA; provided, however, that, for the purposes of the stand-alone plan proposal only, any costs or benefits of any claims which may be made against the Debtors’ Plan Sponsor or the Guarantor under the Original Plan Sponsor PSA shall be excluded from the analysis of such stand-alone plan.
418. “State” means a state of the United States of America.
419. “Sterlite” means Sterlite (USA), Inc., a Delaware corporation, which is the Debtors’ Plan Sponsor.
420. “Sterlite Agreed Order” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means an agreed order of the Bankruptcy Court in substantially the form of Exhibit M-2 to the New Plan Sponsor PSA approving the terms of Article II, the Superior Proposal Threshold, sections 8.10(b), (c), (e), and (f), and section 13.2(b)(v) of the New Plan Sponsor PSA.
421. “Sterlite 9019 Motion” means the Debtors’ Motion for Order, Pursuant to §§ 363, 105 and Fed. R. Bankr. P. 9019, Approving Settlement and Release and Revised Bid

Protections Contained in the New Purchase and Sale Agreement Between ASARCO LLC and Certain of its Subsidiaries and Sterlite (USA), Inc., and for Related relief, filed on March 11, 2009 [Docket No. 10526].

422. “Sterlite 9019 Order” means the order approving the Sterlite 9019 Motion entered by the Bankruptcy Court on April 22, 2009 [Docket No. 10935].
423. “Subordinated Claims” means those Unsecured Claims that are subordinated to all other Unsecured Claims against any of the Debtors, pursuant to an order or by agreement of the Claimant.
424. “Subsequent Administrative Claims” means any Administrative Claims that arise after the Initial Administrative Claims Bar Date.
425. “Subsequent Administrative Claims Bar Date” means the date established in Article 15.13 of the Parent’s Plan for the filing of Subsequent Administrative Claims.
426. “Subsequent Distribution(s)” means, with respect to the Parent’s Plan, any excess funds, including interest, that the Parent’s Plan Administrator determines is available for distribution to Reorganized ASARCO.
427. “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.
428. “Subsidiary Debtors” means all of the Debtors other than ASARCO.
429. “Subsidiary Debtor Assets” means, with respect to the Parent’s Plan, the assets of the Subsidiary Debtors, listed on **Parent’s Plan Exhibit 5**, to be transferred to Reorganized ASARCO on the Effective Date.
430. “Surety Bonds” means all surety bonds, reclamation bonds, performance permit bonds, financial assurance obligations, guaranty obligations, and similar obligations to which any of the Debtors or Reorganized ASARCO are party on the Effective Date.
431. “Superfund” means the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507.
432. “Superior Proposal” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only 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 (a) 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 (as such term is defined in the New Plan Sponsor PSA) making the proposal); (b) 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 the Debtors' Plan Sponsor under section 13.2(b)(v) of the New Plan Sponsor PSA (if any) and if, and only to the extent, the New Plan Sponsor PSA 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 the New Plan Sponsor PSA; and (c) provides a Deemed Value to ASARCO and its Estate that exceeds, by the Superior Proposal Threshold, the Deemed Value of the New Plan Sponsor PSA and the transactions contemplated thereby; 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 the Debtors' Plan Sponsor or the Guarantor under the Original Plan Sponsor PSA shall be excluded from the analysis of such Acquisition Proposal.

433. "Superior Proposal Threshold" shall, with respect to the Debtors' Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means \$25 million plus the amount that would be owed to the Debtors' Plan Sponsor under section 13.2(b)(v) (if anything) following termination of the New Plan Sponsor PSA.
434. "Tax Refund" means the overpayment of \$40,479,421 allowed by the Notice of Partial Allowance and Partial Disallowance of the Refund Claim issued by the IRS, together with statutory interest accrued thereon.
435. "Tax Refund Adversary Proceeding" means adversary proceeding no. 07-02011 pending before the Bankruptcy Court.
436. "TCEQ" means the Texas Commission on Environmental Quality.
437. "Third L/C" shall, with respect to the Debtors' Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the letter of credit issued in favor of ASARCO by a Qualified Bank in the amount of \$25 million, pursuant to section 4.2(c) of the New Plan Sponsor PSA.
438. "Tolling Arrangements" shall, with respect to the Debtors' Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means those commercial arrangements between ASARCO and certain third parties pursuant to which ASARCO agrees to receive raw materials from such third parties for toll conversion and return certain finished products to such third parties.
439. "Toxic Tort Claims" means the toxic tort, personal injury, environmental property damage and related breach-of-settlement Claims asserted against any of the Debtors, including, but not limited to, those resulting from the Debtors' operations of a site in Tar Creek, Oklahoma, the Ray Mine and Hayden Smelter in Ray Complex, Arizona and the



El Paso smelter located in El Paso, Texas. The Toxic Tort Claims do not include any Claims by Governmental Authorities.

440. “Trade Creditor Preference Claim” means, with respect to the Debtors’ Plan, the Litigation Claims listed in **Debtors’ Plan Exhibit 14-E**.
441. “Transition Services Agreement” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means the Transition Services Agreement, dated as of the Closing Date, between the Debtors’ Plan Sponsor and ASARCO, to be negotiated in accordance with section 8.14 of the New Plan Sponsor PSA, which will include, among other things, the services and terms described in Exhibit K to the New Plan Sponsor PSA.
442. “Trust Documents” means, with respect to the Parent’s Plan, the Section 524(g) Trust Documents, the Environmental Custodial Trust Documents, and the Environmental Liquidation Trust Documents, as applicable.
443. “Trust Indenture Act” means the Trust Indenture Act of 1939, as amended, together with all the rules and regulations promulgated thereunder.
444. “Trustees” means the Persons appointed pursuant to the Parent’s Plan for the purpose of acting as initial trustees of the Section 524(g) Trust, the Environmental Liquidation Trust, and/or the Environmental Custodial Trust(s).
445. “Undeliverable and Unclaimed Distribution Reserve” means, with respect to the Parent’s Plan, the escrow account established pursuant to Article 13.5(b) of the Parent’s Plan.
446. “Unimpaired” means a Claim or an Interest that is not Impaired.
447. “Unions” means the labor organizations representing the current employees of ASARCO.
448. “Unpaid Cure Claims Amount” shall, with respect to the Debtors’ Plan, have the meaning assigned to such term in the New Plan Sponsor PSA, which for reference purposes only means, with respect to any Assumption-Pending Pre-Petition Contract (as such term is defined in section 3.5(a) of the New Plan Sponsor PSA), the aggregate amount of any Cure Claims (as such term is defined in the New Plan Sponsor PSA) that remains unpaid as of the Closing Date for any reason, provided that if such amount remains disputed as of such date, the “Unpaid Cure Claims Amount” shall be such amount as is asserted by the non-debtor counterparty to such Contract.
449. “Unpaid Cure Claims Reserve” means, with respect to the Debtors’ Plan, the reserve for any Unpaid Cure Claim Amount which ASARCO may be required to reimburse the Debtors’ Plan Sponsor, in accordance with section 3.5(d) of the New Plan Sponsor PSA.
450. “Unsecured Asbestos Personal Injury Claim” means any Asbestos Personal Injury Claim that is an Unsecured Claim.

451. “Unsecured Asbestos Personal Injury Claimant” means the holder of an Unsecured Asbestos Personal Injury Claim.
452. “U.S. Trustee” means the United States Trustee for the Southern District of Texas.
453. “USDA” means the United States Department of Agriculture.
454. “Unsecured Claim” means any Claim against any of the Debtors that is not a Secured Claim, Administrative Claim, Priority Claim, or Priority Tax Claim, including, without limitation, (a) any claim arising from the rejection of an executory contract or unexpired lease under section 365 of the Bankruptcy Code and (b) any portion of a Claim to the extent the value of the holder’s interest in the Estate’s interest in the property securing such Claim is less than the amount of the Claim or, to the extent that the amount of the Claim subject to setoff is less than the amount of the Claim, as determined pursuant to section 506(a) of the Bankruptcy Code.
455. “USW” means the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC.
456. “Ventura Warehouse” means ASARCO’s warehouse located at 25 E. Ventura in Tucson, Arizona.
457. “Vested Causes of Action” means, with respect to the Debtors’ Plan, the Litigation Claims that shall vest in Reorganized ASARCO, as listed on **Debtors’ Plan Exhibit 14-A**.
458. “Vested Causes of Action Escrow” means, with respect to the Debtors’ Plan, the escrow account established by the Debtors’ Plan Administrator in which the Vested Causes of Action Proceeds shall be placed.
459. “Vested Causes of Action Proceeds” means, with respect to the Debtors’ Plan, the proceeds from the prosecution, compromise, and settlement of the Vested Causes of Action.
460. “Voting Record Date” means \_\_\_\_\_, \_\_\_\_\_, the record date established by the Bankruptcy Court for purposes of deciding which Claimants are entitled to vote on the Debtors’ Plan and the Parent’s Plan.
461. “WHM Copper Mountain” means WHM Copper Mountain Investments, LLC.
462. “Winterthur Swiss” means Winterthur Swiss Insurance Company.
463. “Working Capital Facility” means, with respect to the Parent’s Plan, a revolving working capital facility in the amount of \$200 million, established by the Parent, as lender, and Reorganized ASARCO, as borrower, on terms to be agreed upon by the Parent and Reorganized ASARCO, to be secured by a 75% interest in the proceeds of the Litigation Claims.

**PARENT'S DS EXHIBIT B**

**ASARCO INCORPORATED AND AMERICAS MINING CORPORATION'S THIRD  
AMENDED PLAN OF REORGANIZATION FOR THE DEBTORS UNDER CHAPTER  
11 OF THE UNITED STATES BANKRUPTCY CODE**

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

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

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**ASARCO INCORPORATED AND AMERICAS MINING CORPORATION'S  
THIRD AMENDED PLAN OF REORGANIZATION FOR THE  
DEBTORS UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

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Dated: May 15, 2009

## INJUNCTIONS

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

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**EXHIBITS TO THE PLAN**

<b><u>Exhibit Designation</u></b>	<b><u>Exhibit Title</u></b>
Parent’s Plan Exhibit 1	Schedule of ASARCO Protected Non-Debtor Affiliates
Parent’s Plan Exhibit 2	Schedule of Released Litigation
Parent’s Plan Exhibit 3	Schedule of Executory Contracts and Unexpired Leases to be Rejected Under the Parent’s Plan
Parent’s Plan Exhibit 4	Form of Parent’s Plan Administration Agreement
Parent’s Plan Exhibit 5	Schedule of Subsidiary Debtor Assets To Be Transferred to Reorganized ASARCO
Parent’s Plan Exhibit 6	Schedule of Asbestos Insurance Policies
Parent’s Plan Exhibit 7	Schedule of Class 2 Secured Claims
Parent’s Plan Exhibit 8	Schedule of Directors, Officers & Administrators
Parent’s Plan Exhibit 9	Schedule of Litigation Claims
Parent’s Plan Exhibit 10	Form of Working Capital Facility
Parent’s Plan Exhibit 11	Form of Section 524(g) Trust Agreement
Parent’s Plan Exhibit 12	Form of ASARCO Security Agreement
Parent’s Plan Exhibit 13	Form of ASARCO Deed of Trust
Parent’s Plan Exhibit 14	Form of Parent Pledge Agreement
Parent’s Plan Exhibit 15	Schedule of Owned Strategic Properties
Parent’s Plan Exhibit 16	Schedule of Designated Properties and Funding Amounts for Environmental Liquidation and Custodial Trusts
Parent’s Plan Exhibit 17	Form of Environmental Liquidation Trust Agreement
Parent’s Plan Exhibit 18	Form of Environmental Custodial Trust Agreements

ASARCO Incorporated and Americas Mining Corporation (“AMC” and, together with ASARCO Incorporated, the “Parent”) respectfully propose the following joint plan of reorganization (the “Parent’s Plan”) for the Debtors 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 the Parent’s Plan have the meanings set forth in the Uniform Glossary of Defined Terms for Plan Documents (the “Glossary”), which is Exhibit A to the Disclosure Statement. Capitalized terms used in the Parent’s Plan which are not defined in the Glossary but which are defined in the Bankruptcy Code shall have the respective meanings specified in the Bankruptcy Code.

1.2 Rules of Interpretation. Unless otherwise provided herein for purposes of the Parent’s Plan: (a) whenever it is appropriate from the context, each term, whether stated in the singular or the plural, will include both the singular and the plural; (b) any reference in the Parent’s 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 will be substantially in such form or substantially on such terms and conditions; (c) any reference in the Parent’s 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 the Parent’s Plan; (d) any reference to any Entity as a holder of a Claim includes that Entity’s successors and assigns; (e) all references in the Parent’s Plan to sections, articles, and exhibits are references to sections, articles, and exhibits of or to the Parent’s Plan; (f) the words “herein,” “hereof,” “hereunder,” “hereto” and others of similar import refer to the Parent’s Plan in its entirety rather than to a particular portion of the Parent’s 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, the Parent’s Plan; and (h) the rules of construction set forth in section 102 of the Bankruptcy Code will apply. Notwithstanding anything in the Parent’s Plan to the contrary, any Claim against any Debtor asserted by an Affiliate of any Debtor shall be deemed disallowed in its entirety upon entry of the Confirmation Order.

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

## ARTICLE II

### TREATMENT OF ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS AND DEMANDS

2.1 Administrative Claims. Each holder of an Allowed Administrative Claim (except any holder that agrees to lesser or otherwise different treatment) shall be Paid in Full, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date on which such Administrative Claim becomes an Allowed Claim; provided, however, that (a) Allowed Administrative Claims representing

(1) post-petition liabilities incurred in the ordinary course of business by any 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 by Reorganized ASARCO 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 a Final Order of the Bankruptcy Court. 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 Settled Asbestos Insurance Companies shall each have an Allowed Administrative Claim for the Pre-524(g) Indemnity, in accordance with the terms and conditions of the Asbestos Insurance Settlement Agreement.

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 Trusts and/or Environmental Liquidation Trust, as applicable, as provided in Article VII of the Parent's Plan.

2.2 Priority Tax Claims. Each holder of an Allowed Priority Tax Claim (except any holder that agrees to lesser or otherwise different treatment), at the election of the Parent, shall (1) be Paid in Full, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date upon which such Priority Tax Claim becomes an Allowed Claim, or (2) receive treatment in any other manner such that its Allowed Priority Tax Claim shall not be impaired pursuant to section 1124 of the Bankruptcy Code, including, but not limited to, payment in accordance with the provisions of section 1129(a)(9)(C) of the Bankruptcy Code.

2.3 Demands. Demands shall be accorded the Section 524(g) Treatment provided to Class 4 Asbestos Personal Injury Claims, and shall be determined, processed, liquidated and paid pursuant to the terms and conditions of the Section 524(g) Trust Distribution Procedures and the Section 524(g) Trust Agreement.

The FCR is entitled to make an election regarding whether to accept or reject the Section 524(g) Treatment, provided, however, that, under the Asbestos/AMC/Parent Agreement in Principle, the FCR agreed to support the Parent's Plan including the Section 524(g) Treatment.

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 the Parent's 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 is within the description of that different Class.

3.2 Classes. The following constitute the Classes of Claims and Interests addressed by the Parent's Plan. All Classes of Claims shall be deemed divided into Subclasses (and sub-Subclasses, as applicable) of Claims against each of the Debtors.

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

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

(c) Class 3 – Bondholder Claims. Class 3 consists of all Bondholder Claims against each of the Debtors.

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

(e) Class 5 – General Unsecured Claims. Class 5 consists of all General Unsecured Claims against each of the Debtors.

(f) Class 6 – Environmental Unsecured Claims. Class 6 consists of all Environmental Unsecured Claims against each of the Debtors

(g) Class 7 – Environmental Trust Claims. Class 7 consists of all Environmental Trust Claims against each of the Debtors

(h) Class 8 – Environmental Reinstated Claims. Class 8 consists of all Environmental Reinstated Claims against each of the Debtors.

(i) Class 9 – Late-Filed Claims. Class 9 consists of all Late-Filed Claims against each of the Debtors.

(j) Class 10 – Subordinated Claims. Class 10 consists of all Subordinated Claims against each of the Debtors.

(k) Class 11 – Interests in ASARCO. Class 11 consists of all Interests in ASARCO.

## ARTICLE IV

### TREATMENT OF CLAIMS AND INTERESTS

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

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

4.2 Classes of Claims and Interests.

(a) *Class 1 – Priority Claims.*

Each holder of an Allowed Priority Claim (except any holder that agrees to lesser or otherwise different treatment) shall, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, be Paid in Full, in Cash, on the later of the Effective Date or the date on which such Priority Claim becomes an Allowed Claim.

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

(b) *Class 2 – Secured Claims.*

Each holder of an Allowed Secured Claim, at the election of the Parent, in full satisfaction, settlement, release, extinguishment and discharge of such Claim, shall (1) be paid, in Cash, the full value of the Collateral securing such Allowed Secured Claim on the later of the Effective Date or the date on which such Secured Claim becomes due in the ordinary course, (2) be Reinstated, (3) receive from Reorganized ASARCO all Collateral securing such Allowed Secured Claim, or (4) receive such other treatment as may be agreed upon between the Parent and the holder of such Allowed Secured Claim.

Except as otherwise provided herein, any Asbestos Personal Injury Claimant with a Lien against any property of the Debtors, other than proceeds of an Asbestos Insurance Policy, shall retain the Lien securing such Claim, subject to the Parent's election in this Article 4.2(b). Secured Asbestos Personal Injury Claims which are secured by Liens against proceeds of an Asbestos Insurance Policy shall be included in the treatment accorded Class 4 Asbestos Personal Injury Claims, as set forth in Article 4.2(d) of the Parent's Plan, and shall be determined, processed, liquidated, and paid pursuant to the terms and conditions of the Asbestos TDP and the Asbestos Trust Agreement; provided, however, that the Asbestos Trust may assert any rights (including, but not limited to, avoidance rights and rights of setoff and recoupment), defenses (including, but not limited to, affirmative defenses), and objections that the Debtors have against or with respect to such Claims, which rights, defenses, and objections are transferred to the Asbestos Trust pursuant to the Parent's Plan.

Each Secured Claim shall be deemed to be in a separate sub-Class of Class 2 for all purposes hereunder, and treated as a separate sub-Class for voting and solicitation purposes. **Parent's Plan Exhibit 7** 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 Parent shall make its election prior to the Confirmation Hearing. The Parent shall solicit the votes of each sub-Class of Secured Claims. If the Parent 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 Parent elects the Cash payment option as to a particular Secured Claim, that sub-Class shall be deemed impaired, and that sub-Class's vote shall be counted.

(c) *Class 3 – Bondholder Claims.*

Each Allowed Bondholder Claim shall, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date on which such Bondholder Claim becomes an Allowed Claim, receive Cash in an amount equal to 75% of such Allowed Bondholder Claim.

This Class is impaired. Holders of Allowed Bondholder Claims in Class 3 are entitled to vote to accept or reject the Parent's Plan. Each Bond Issuance shall be deemed a separate sub-Class for voting and distribution purposes. The Parent reserves the right to Reinstate any sub-Class of Bondholder Claims with respect to a particular Bond Issuance.

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

Asbestos Personal Injury Claims and Demands against any of the Debtors shall together be allowed in the aggregate amount of one billion dollars (\$1.0 billion). On the Effective Date, the Section 524(g) Trust shall be established and funded with the Section 524(g) Trust Assets, and liability of the Debtors for all Asbestos Personal Injury Claims and Demands shall be assumed by, and channeled to, the Section 524(g) Trust without further act or deed, and satisfied as set forth herein. The Section 524(g) Trust is described in Article VI below. All Asbestos Personal Injury Claims and Demands shall be processed, liquidated and paid pursuant to the terms and provisions of the Section 524(g) Trust Distribution Procedures and the Section 524(g) Trust Agreement. The sole recourse of the holder of an Asbestos Personal Injury Claim or Demand shall be to the Section 524(g) Trust and the Section 524(g) Trust Distribution Procedures, and such holder shall have no rights whatsoever at any time to assert such holder's Claim or Demand against any Debtor, Reorganized ASARCO, or any ASARCO Protected Party. Without limiting the foregoing, on the Effective Date, all Persons shall be permanently and forever stayed, restrained and enjoined from taking any enjoined actions against any ASARCO Protected Party (or against the property or interest in property of the Debtors and their Estates or of any ASARCO Protected Party, or against any Designated Property) for the purpose of, directly or indirectly, collecting, recovering, or receiving payment of, on or with respect to any Asbestos Personal Injury Claim or Demand.

This Class is impaired. Holders of Allowed Asbestos Personal Injury Claims in Class 4 are entitled to vote to accept or reject the Parent's Plan.

(e) *Class 5 – General Unsecured Claims.*

Each holder of an Allowed General Unsecured Claim (except any holder that agrees to lesser or otherwise different treatment) shall, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date on which such General Unsecured Claim becomes an Allowed Claim, receive Cash in an amount equal to 75% of such Allowed General Unsecured Claim.

This Class is impaired. Holders of Allowed General Unsecured Claims in Class 5 are entitled to vote to accept or reject the Parent's Plan.

(f) *Class 6 – Environmental Unsecured Claims.*

Each holder of an Allowed Environmental Unsecured Claim (except any holder that agrees to lesser or otherwise different treatment) shall, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the later of the Effective Date or the date on which such Environmental Unsecured Claim becomes an Allowed Claim, receive Cash in an amount equal to 75% of such Allowed General Unsecured Claim.

This Class is impaired. Holders of Environmental Unsecured Claims in Class 6 are entitled to vote to accept or reject the Parent's Plan.

(g) *Class 7 – Environmental Trust Claims.*

On the Effective Date, each Environmental Trust Claim, in full satisfaction, settlement, release, extinguishment and discharge of such Environmental Trust Claim, shall be Reinstated, assumed by the Environmental Liquidation Trust, and administered in accordance with the Environmental Liquidation Trust Agreement; provided, however, that at the unanimous election (to be effected through an election on the applicable Ballot) of each federal and state agency holding an Allowed Environmental Trust Claim with respect to an applicable Designated Property, such Designated Property shall be transferred to, and all environmental liabilities associated with such Designated Property shall be assumed by, the applicable Environmental Custodial Trust in accordance with the applicable Environmental Custodial Trust Agreement.

In unanimously electing a Designated Property to be transferred to an Environmental Custodial Trust (each property so transferred, a "Designated Elected Property"), all federal and state agencies holding an Allowed Environmental Trust Claim with respect to such Designated Elected Property shall agree that all Environmental Trust Claims with respect to such Designated Elected Property shall be assumed by the applicable Environmental Custodial Trust and such federal and state agencies shall have no further claims against the ASARCO Protected Parties in connection with such Designated Elected Property.



With respect to each Designated Property transferred to the Environmental Liquidation Trust, the amounts of Environmental Liquidation Trust Administration Funding and Environmental Liquidation Trust Funding listed in **Parent's Plan Exhibit 16-A**, or such other lesser amounts as are necessary to cleanup such Designated Properties to regulatory closure, shall be transferred to the Environmental Liquidation Trust on account of each such Designated Property.

With respect to each Designated Property transferred to an Environmental Custodial Trust, the amounts of Environmental Custodial Trust Administration Funding and Environmental Custodial Trust Funding listed in **Parent's Plan Exhibit 16-B** shall be transferred to the applicable Environmental Custodial Trust on account of each such Designated Elected Property.

This Class is unimpaired. Class 7, and holders of Environmental Trust Claims in Class 7, are conclusively presumed to have accepted the Parent's Plan and, accordingly, are not entitled to vote on the Parent's Plan; provided, however, that each federal and state agency holding an Allowed Environmental Trust Claim with respect to a Designated Property shall be entitled to elect to have such Designated Property transferred to an Environmental Custodial Trust.

(h) *Class 8 – Environmental Reinstated Claims.*

On the Effective Date, Environmental Reinstated Claims shall be Reinstated and, from and after the Effective Date, Reorganized ASARCO shall assume, pay, perform and discharge when due all of its Assumed Environmental Liabilities.

This Class is unimpaired. Class 8, and holders of Environmental Reinstated Claims in Class 8, are conclusively presumed to have accepted the Parent's Plan and, accordingly, are not entitled to vote on the Parent's Plan.

(i) *Class 9 – Late-Filed Claims.*

The holders of Late-Filed Claims shall not receive or retain any property under the Parent's Plan on account of such Claims.

This Class is impaired. Class 9 is deemed to have rejected the Parent's Plan and, accordingly, is not entitled to vote on the Parent's Plan.

(j) *Class 10– Subordinated Claims.*

The holders of Subordinated Claims shall not receive or retain any property under the Parent's Plan on account of such Claims.

This Class is impaired. Class 10 is deemed to have rejected the Parent's Plan and, accordingly, is not entitled to vote on the Parent's Plan.

(k) *Class 11 – Interests in ASARCO.*

The Interests in ASARCO shall be deemed cancelled, and the holder of such Interests shall not receive or retain any property under the Parent's Plan on account of such Interests.

In exchange for the Parent Contribution, ASARCO USA Incorporated or its designee shall receive the New Equity Interests on the Effective Date.

This Class is impaired. Class 11 is deemed to have rejected the Parent's Plan and, accordingly, is not entitled to vote on the Parent's Plan.

## ARTICLE V

### VOTING RIGHTS

5.1 Cramdown. If all applicable requirements for Confirmation of the Parent's Plan are met as set forth in section 1129(a)(1) through (13) of the Bankruptcy Code *except* subsection (8) thereof, the Parent's Plan shall be treated as a request by the Parent for Confirmation of the Parent's Plan in accordance with the "cramdown" provisions of section 1129(b) of the Bankruptcy Code, notwithstanding the failure to satisfy the requirements of section 1129(a)(8), on the basis that the Parent's 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, the Parent's Plan.

## ARTICLE VI

### SECTION 524(G) TRUST

#### 6.1 Establishment and Purpose of the Section 524(g) Trust.

(a) On the Effective Date, the Section 524(g) Trust shall be established in accordance with the Parent's Plan Documents. When established, the Section 524(g) Trust shall be empowered in accordance with the Parent's Plan and the Parent's Plan Documents. The Section 524(g) Trust will be a "qualified settlement fund" within the meaning of Treasury Regulation section 1.468B-1. The purposes of the Section 524(g) Trust shall be to, among other things, (a) liquidate, resolve, pay, and satisfy all Asbestos Personal Injury Claims and Demands in accordance with the Parent's Plan, the Section 524(g) Trust Distribution Procedures, the Section 524(g) Trust Agreement, and the Confirmation Order, (b) receive, preserve, hold, manage, and maximize the Section 524(g) Trust Assets for use in paying and satisfying Allowed Asbestos Personal Injury Claims and Demands in accordance with the terms of the Section 524(g) Trust Agreement, and (c) take other actions deemed by the Section 524(g) Trustees to be in the best interests of the holders of the Asbestos Personal Injury Claims and Demands, who are the sole beneficiaries of the Section 524(g) Trust.

(b) The Section 524(g) Trustees shall create an Asbestos Premises Liability Claims Fund for payment of Asbestos Premises Liability Claims and Demands. The Asbestos Premises Liability Claims Fund shall be funded with, directly or indirectly: (a) proceeds from certain Asbestos Insurance Policies that are subject to prepetition settlement agreements regarding Asbestos Premises Liability Claims and Demands; (b) additional proceeds, if any,

from the Asbestos Insurance Recoveries that are applicable to Asbestos Premises Liability Claims and Demands; and (c) if necessary, an amount determined by the Section 524(g) Trustees, in their sole discretion, to satisfy all Asbestos Premises Liability Claims and Demands, if any, that are not subject to coverage under the prepetition settlement agreements referenced herein. Asbestos Premises Liability Claims and Demands shall be processed, liquidated and paid pursuant to the terms and provisions of the Section 524(g) Trust Distribution Procedures and the Section 524(g) Trust Agreement.

6.2 Section 524(g) Trust Agreement. The Section 524(g) Trust Agreement shall be substantially in the form of the “Section 524(g) Trust Agreement” attached as **Parent’s Plan Exhibit 11** to the Parent’s Plan, which contains provisions customary to documents utilized in comparable circumstances, and shall be subject to the reasonable approval of the FCR and the Asbestos Claimants’ Committee.

6.3 Transfers and Assignments to the Section 524(g) Trust. On the Effective Date, the Parent’s Plan Administrator shall transfer and assign to the Section 524(g) Trust for the benefit of the Section 524(g) Trust Beneficiaries the Section 524(g) Trust Assets.

6.4 Control of the Asbestos Insurance Actions and Asbestos Insurance Recoveries. The right to control the Asbestos Insurance Actions and all Asbestos Insurance Recoveries, including negotiations relating thereto and settlements thereof, shall be vested in the Section 524(g) Trust on and after the Effective Date. Notwithstanding the foregoing, Reorganized ASARCO, the Parent’s Plan Administrator and the Parent shall cooperate with the Section 524(g) Trustees in pursuing the Asbestos Insurance Actions through such means, and shall provide reasonable access to personnel and books and records of Reorganized ASARCO relating to the Asbestos Insurance Actions to representatives of the Section 524(g) Trust, to enable the Section 524(g) Trustees to perform the Section 524(g) Trustees’ tasks under the Section 524(g) Trust Agreement and the Parent’s Plan, as set forth in the Section 524(g) Trust Cooperation Agreement and as is discussed below in Article 6.11 in regards to Reorganized ASARCO.

6.5 Assumption of Liabilities by the Section 524(g) Trust. On the Effective Date, in exchange for funding in accordance with Article 6.3 of the Parent’s Plan, the Section 524(g) Trust shall be deemed, without need for further action, to have assumed responsibility and liability for all Asbestos Personal Injury Claims and Demands.

6.6 Tax Matters. No election will be made to treat the Section 524(g) Trust as a grantor trust for U.S. federal income tax purposes. The Section 524(g) Trust is intended to be treated as a “qualified settlement fund” within the meaning of Treasury Regulation section 1.468B-1, and hence as a taxable entity for federal income tax purposes, and the Section 524(g) Trustees shall be the “administrators” of the Section 524(g) Trust pursuant to Treasury Regulation section 1.468B-2(k)(3). The Section 524(g) Trustees shall cause all taxes imposed on the Section 524(g) Trust to be paid using assets of the Section 524(g) Trust and shall comply with all tax reporting and withholding requirements imposed on the Section 524(g) Trust under applicable tax laws, and in particular the rules applicable to a qualified settlement fund.

6.7 Section 524(g) Trust Expenses. The Section 524(g) Trust shall initially be funded in the amount of \$27.5 million, which amount shall be deemed an Administrative Expense, to pay Section 524(g) Trust Expenses (including applicable taxes). Following such initial funding, neither the Debtors, the Parent, the Parent's Plan Administrator, nor Reorganized ASARCO shall have any obligation to pay or reimburse any Section 524(g) Trust Expenses. However, nothing shall preclude the Section 524(g) Trustees from seeking reimbursement of such expenses from any Asbestos Insurance Company.

6.8 Initial Section 524(g) Trustees. The initial Section 524(g) Trustees shall be those Persons nominated by the Asbestos Claimants' Committee and the FCR, if the Asbestos Claimants' Committee and the FCR are willing to make such nominations, or otherwise nominated by the Parent, and designated in the Confirmation Order.

6.9 The FCR. 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.

6.10 Section 524(g) Trust Advisory Committee. The initial members of the Section 524(g) Trust Advisory Committee shall be those Persons nominated by the Asbestos Claimants' Committee if the Asbestos Claimants' Committee is willing to make such nominations, or otherwise nominated by the Parent, and designated in the Confirmation Order. They shall consult with and advise the Section 524(g) Trustees regarding the administration of the Section 524(g) Trust and the liquidation and resolution of Asbestos Personal Injury Claims and Demands in accordance with the provisions of the Parent's Plan and the Section 524(g) Trust Documents.

6.11 Asbestos Books.

(a) Subject to the conditions set forth herein and as more fully described in the Section 524(g) Cooperation Agreement, the Section 524(g) Trust, through its duly authorized representatives, shall have the right, upon reasonable prior written notice to Reorganized ASARCO, to either, at the election of Reorganized ASARCO in its sole discretion: (a) have Reorganized ASARCO transfer into the Section 524(g) Trust's possession all or part of the Asbestos Books in their current condition upon request of the Section 524(g) Trust and on the condition that the Section 524(g) Trust will incur all costs and expenses of the transfer; or (b) to inspect and, at the sole expense of the Section 524(g) Trust, make copies of the Asbestos Books on any Business Day and as often as may reasonably be desired; provided that, if so requested, the Section 524(g) Trust shall have entered into a reasonable confidentiality agreement satisfactory in form and substance to Reorganized ASARCO. All costs and expenses associated with the storage of any Asbestos Books that remain in the possession of Reorganized ASARCO shall be the responsibility of, and paid by, Reorganized ASARCO. All costs and expenses associated with the storage of and access to any Asbestos Books that are transferred to the Section 524(g) Trust shall be the responsibility of, and paid by, the Section 524(g) Trust. Reorganized ASARCO, the Parent's Plan Administrator and the Parent shall cooperate with the Section 524(g) Trust in transferring or providing access to the Asbestos Books in their current

condition, and shall also provide reasonable access to necessary or appropriate personnel and the Asbestos Books as contemplated herein and in the Section 524(g) Cooperation Agreement. Subject to the conditions set forth herein and in the Section 524(g) Cooperation Agreement, the Section 524(g) 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. Reorganized ASARCO shall provide the Section 524(g) Trust with advance notice of any proposed disposition of any of the Asbestos Books and a reasonable opportunity to segregate and remove such Asbestos Books as the Section 524(g) Trust may select.

(b) If the Section 524(g) Trust obtains from Reorganized ASARCO or its representatives any documents or communications (whether written or oral) to which any attorney-client, work-product privilege or other privilege or immunity attaches, the Section 524(g) Trust shall be deemed a privilege holder for purposes of 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. Production of materials to the Section 524(g) Trust does not constitute a waiver or an impairment of any privilege held by Reorganized ASARCO or ASARCO. Unless otherwise ordered by the Bankruptcy Court, in processing and determination of, objection to, or otherwise in connection with Asbestos Personal Injury Claims or in connection with any Asbestos Insurance Recovery, as determined by the Section 524(g) Trust, the information contained in the Asbestos Books shall be treated as confidential. Except as otherwise provided herein, in the event that any third party challenges any such privilege or confidentiality, Reorganized ASARCO may seek protection from a court of competent jurisdiction. References in this Article 6.11 to Reorganized ASARCO shall also include its successors in interest.

6.12 Cooperation with Respect to Insurance Matters. Reorganized ASARCO and the Parent shall cooperate with the Section 524(g) Trust and use commercially reasonable efforts to take or cause to be taken all appropriate actions and to do or cause to be done all things necessary or appropriate to effectuate all transfers and assignments identified herein to the Section 524(g) Trust. By way of enumeration and not of limitation, Reorganized ASARCO and ASARCO each shall be obligated, without limitation, (a) to provide the Section 524(g) Trust with copies of insurance policies and settlement agreements included within or relating to the Asbestos Personal Injury Claims and Demands; (b) to provide the Section 524(g) Trust with information necessary or helpful to the Section 524(g) Trust in connection with its efforts to obtain insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries, including, without limitation, recoveries of extracontractual damages; (c) to execute assignments or allow the Section 524(g) Trust to pursue claims in its own name (subject to appropriate disclosure of the fact that the Section 524(g) Trust is doing so and the reasons why it is doing so), including by means of arbitration, alternative dispute resolution proceedings or litigation, to the extent necessary or helpful to the efforts of the Section 524(g) Trust to obtain insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries, including, without limitation, recoveries of extracontractual damages; and (d) to pursue and recover insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries, including, without limitation, recoveries of extracontractual damages, in its own name or right to the extent that any or all of the transfers and assignments identified herein are not able to be fully effectuated, with any and all recoveries therefrom to be turned over

to the Section 524(g) Trust. The Section 524(g) Trust shall be obligated to compensate Reorganized ASARCO and ASARCO for all costs and expenses reasonably incurred in connection with providing assistance to the Section 524(g) Trust under this Article 6.12, including, without limitation, out-of-pocket costs and expenses, consultant fees and attorneys' fees.

6.13 Indemnification by the Section 524(g) Trust.

(a) The Section 524(g) Trust shall indemnify, defend (and, where applicable, pay the defense costs for), and hold harmless each of the ASARCO Protected Parties from any and all liabilities associated with an Asbestos Personal Injury Claim or Demand that a third party seeks to impose upon any of the ASARCO Protected Parties, or that are imposed upon any of the ASARCO Protected Parties.

(b) In the event that the Section 524(g) Trust makes a payment to any of the ASARCO Protected Parties hereunder, and the liability on account of which such payment was made is subsequently diminished, either directly or through a third-party recovery, the applicable ASARCO Protected Party shall promptly repay the Section 524(g) Trust the amount by which the payment made by the Section 524(g) Trust exceeds the actual cost of such indemnified liability.

ARTICLE VII

ENVIRONMENTAL CUSTODIAL & ENVIRONMENTAL LIQUIDATION TRUSTS

7.1 Environmental Liquidation Trust. On the Effective Date, the Environmental Liquidation Trust shall be established and funded with the Environmental Liquidation Trust Assets. All Environmental Trust Claims with respect to the Designated Properties transferred to the Environmental Liquidation Trust shall be Reinstated on the Effective Date. In exchange for the Environmental Liquidation Trust Assets, the Environmental Liquidation Trust shall assume liability for all Environmental Trust Claims with respect to the Designated Properties transferred to the Environmental Liquidation Trust, as provided in the Environmental Liquidation Trust Agreement, and the ASARCO Protected Parties shall have no further liabilities with respect to such Environmental Trust Claims. In addition, all Administrative Claims of the United States or any individual state under civil Environmental Laws relating to all Designated Properties transferred to the Environmental Liquidation Trust shall be assumed by the Environmental Liquidation Trust.

In accordance with the Environmental Liquidation Trust Agreement, as soon as practicable after the Effective Date, the Environmental Liquidation Trust shall commence Remedial Actions with respect to the Designated Properties, and shall thereafter facilitate, oversee, and fund environmental clean-up efforts such that each Designated Property is cleaned up to regulatory closure in accordance with a cleanup plan approved by the EPA or the state having authority over such Designated Property. The Environmental Liquidation Trust shall liquidate Designated Properties as they are cleaned up to regulatory closure, with the proceeds of such liquidations used solely to fund further Remedial Actions with respect to the other Designated Properties, provided that, with respect to any individual Designated Property, no

funds shall be distributed for cleanup efforts in excess of the amount of the Environmental Liquidation Funding listed on **Parent's Plan Exhibit 16-A** for such Designated Property plus any additional funds made available by the sale of other Designated Properties. Once all Designated Properties have been cleaned up to regulatory closure and liquidated, any remaining Environmental Liquidation Trust Administration Funding, Environmental Liquidation Trust Funding, proceeds from sales of Designated Properties, and any other Cash or assets of the Environmental Liquidation Trust shall be distributed to Reorganized ASARCO.

Notwithstanding anything to the contrary in the Parent's Plan or the Environmental Liquidation Trust Agreement, (a) to the extent an Entity asserts a valid Lien with respect to property contained within or on a Designated Property, such entity shall retain such Lien unless the Allowed Secured Claim of such Entity has been Paid in Full; and (b) to the extent an Entity has asserted a Lien with respect to property contained within or on a Designated Property but does not possess an Allowed Secured Claim with respect to such purported collateral, any proceeds of such property shall be segregated by the Environmental Liquidation Trust until such time as such Entity's purported Secured Claim is allowed or disallowed and may only be utilized by the Environmental Liquidation Trust in the event such purported Secured Claim is disallowed.

In the event the federal and state agencies with interests in the El Paso Smelter do not unanimously elect to have the El Paso Smelter transferred to an Environmental Custodial Trust, the Parent shall surrender the El Paso Smelter's air permit and shall not (i) reopen the El Paso Smelter, (ii) sell the El Paso Smelter as an operating facility, or (iii) transfer the El Paso Smelter's air permit to the Environmental Liquidation Trust.

7.2 Environmental Liquidation Trustees. Not less than ten days prior to the commencement of the Confirmation Hearing, the Parent shall designate the Persons who shall initially serve as the Environmental Liquidation Trustees. Upon approval by the Bankruptcy Court in the Confirmation Order, the Environmental Liquidation Trustees shall be appointed.

7.3 Environmental Custodial Trusts. If the applicable federal and state agencies holding Allowed Environmental Trust Claims with respect to one or more Designated Properties unanimously elect to have such Designated Properties transferred to an Environmental Custodial Trust, then, on or before the Effective Date, the applicable Environmental Custodial Trust(s) shall be created, the Custodial Trust Administrative Account(s) shall be funded pursuant to the applicable Environmental Custodial Trust Agreement(s), and, on the Effective Date, the Debtors' respective rights, title, and interests in the Designated Elected Properties, together with the appropriate Environmental Custodial Trust Funding and Environmental Custodial Trust Administration Funding for the Designated Elected Properties shall be transferred to the applicable Environmental Custodial Trust(s), which shall take title pursuant to the applicable Environmental Custodial Trust Agreement(s). In exchange for the Environmental Custodial Trust Assets, each Environmental Custodial Trust shall assume liability for all Environmental Trust Claims with respect to the Designated Elected Properties transferred to it. In addition, all Administrative Claims of the United States or any individual state under civil Environmental Laws relating to each Designated Elected Property transferred to an Environmental Custodial Trust shall be assumed by such Environmental Custodial Trust.

In accordance with the applicable Environmental Custodial Trust Agreement, as soon as practicable after the Effective Date, each Environmental Custodial Trust shall commence Remedial Actions with respect to its Designated Elected Properties, and shall thereafter facilitate, oversee, and fund environmental clean-up efforts such that each Designated Elected Property is cleaned up to regulatory closure in accordance with a cleanup plan approved by the EPA or the State having authority over such Designated Elected Property. Each Environmental Custodial Trust shall liquidate the applicable Designated Elected Properties as they are cleaned up to regulatory closure, with the proceeds of such liquidations used solely to fund further Remedial Actions with respect to the other Designated Elected Properties in such Environmental Custodial Trust, if any. Once all Designated Elected Properties in any Environmental Custodial Trust have been cleaned up to regulatory closure and liquidated, any remaining applicable Environmental Custodial Trust Administration Funding, Environmental Custodial Trust Funding, proceeds from the sale of the applicable Designated Elected Properties, and any other Cash or assets of such Environmental Custodial Trust shall be distributed according to the terms of the applicable Environmental Custodial Trust Agreement.

Notwithstanding anything to the contrary in the Parent's Plan or any Environmental Custodial Trust Agreement, (a) to the extent an Entity asserts a valid Lien with respect to property contained within or on a Designated Property, such entity shall retain such Lien unless the Allowed Secured Claim of such Entity has been Paid in Full; and (b) to the extent an Entity has asserted a Lien with respect to property contained within or on a Designated Property but does not possess an Allowed Secured Claim with respect to such purported collateral, any proceeds of such property shall be segregated by the Environmental Custodial Trust until such time as such Entity's purported Secured Claim is allowed or disallowed and may only be utilized by the Environmental Custodial Trust(s) in the event such purported Secured Claim is disallowed.

7.4 Environmental Custodial Trustees. Not less than ten days prior to the commencement of the Confirmation Hearing, the DOJ (in consultation with the states that have Allowed Environmental Trust Claims with respect to any Designated Elected Properties) shall designate the Persons who shall initially serve as the Environmental Custodial Trustees. Upon approval by the Bankruptcy Court in the Confirmation Order, the Environmental Custodial Trustees shall be appointed.

7.5 Tax Matters. The Parent's Plan Administrator will treat the assets held in the Environmental Liquidation Trusts as owned by Reorganized ASARCO for U.S. federal income tax purposes (and solely for U.S. federal income tax purposes) and not as a qualified settlement fund within the meaning of Treasury Regulations section 1.468B-2(k)(3). Accordingly, tax on the income from the assets held in the Disputed Claims Reserve will be paid by Reorganized ASARCO or certain of its Affiliates. The Parent's Plan Administrator will distribute to Reorganized ASARCO from the Environmental Liquidation Trust within 30 days of the close of each calendar year an amount equal to the product of (x) the taxable income of the Disputed Claims Reserve (computed as if the Environmental Liquidation Trust were a corporation for U.S. federal income tax purposes) and (y) the sum of (1) highest rate of tax imposed by section 11 of the Internal Revenue Code with respect to such calendar year and (2) five percent. The Parent's Plan Administrator will treat the assets held in the Environmental Custodial Trusts as having been transferred to the beneficiaries of those trusts and not as owned



by Reorganized ASARCO for U.S. federal income tax purposes. The transferee beneficiaries of such Environmental Custodial Trusts may elect any available tax treatment for such trusts as they may choose. In no event will Reorganized Asarco be liable for any taxes imposed on or with respect to any income derived by any Environmental Custodial Trust.

## ARTICLE VIII

### TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

8.1 Assumption or Rejection of Unexpired Leases and Executory Contracts. On the Effective Date, except as otherwise provided in the Parent's Plan, any unexpired lease or executory contract that has not been previously assumed or rejected by any Debtor pursuant to an order of the Bankruptcy Court shall be deemed assumed 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 on **Parent's Plan Exhibit 3** hereto (as such list may be amended, supplemented or modified on or before the Confirmation Date) or (b) subject to a motion to reject that is pending on the Effective Date. Entry of the Confirmation Order shall constitute approval of such assumptions, and the rejection of the executory contracts or unexpired leases listed in **Parent's Plan Exhibit 3** hereto (as such list may be amended, supplemented or modified on or before the Confirmation Date), pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Any motions to reject 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 of the executory contracts and unexpired leases assumed pursuant to Article 8.1 of the Parent's Plan; (b) the extension of time, pursuant to section 365(d)(4) of the Bankruptcy Code, within which the Debtors or Reorganized ASARCO may assume, assume and assign, or reject the unexpired leases specified in Article 8.1 of the Parent's 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 the Parent's Plan.

8.3 Inclusiveness. Unless otherwise specified on **Parent's Plan Exhibit 3** hereto, each executory contract and unexpired lease listed or to be listed on **Parent's Plan Exhibit 3** shall include modifications, amendments, supplements, restatements or other agreements made directly or indirectly by any agreement, instrument, or other document that in any manner affects such executory contract or unexpired lease, without regard to whether such agreement, instrument or other document is listed on **Parent's Plan Exhibit 3**.

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 the Parent's 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 the Debtors, Reorganized ASARCO, or their respective properties, unless a Proof of Claim is filed and served upon the Parent's Plan Administrator within thirty 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 become, and shall be treated for all purposes under the Parent's Plan as, a General Unsecured Claim, and the holder thereof shall receive distributions as a holder of an Allowed General Unsecured Claim, pursuant to the Parent's Plan.

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

(a) To the extent that Cure Amount Claims constitute monetary defaults, such Cure Amount Claims shall be satisfied by Reorganized ASARCO, pursuant to section 365(b)(1) of the Bankruptcy Code: (1) by payment of the Cure Amount Claim on the Effective Date; or (2) on such other terms as are agreed to by the Parent 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 or (B) any other matter pertaining to 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 and assignment.

8.7 Employee Benefit Plans and Other Benefits.

(a) Effective as of the Effective Date, Reorganized ASARCO shall be responsible for all benefits and liabilities with respect to the Employee Benefit Plans.

(b) All of the applicable Debtors' liabilities and obligations arising under the Employee Benefit Plans and workers' compensation benefits, even if such liability or obligation relates to Claims incurred (whether or not reported or paid) prior to the Effective Date, shall be deemed to be, and shall be treated as though they are, executory contracts that are deemed assumed under the Parent's Plan pursuant to sections 365(a), 365(f) and 1123 of the Bankruptcy Code.

(c) Reorganized ASARCO shall be responsible for all of each Debtor'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).

(d) ASARCO sponsors two defined benefit pension plans, the Retirement Income Plan for Hourly-Rated Employees of ASARCO, Inc. and the Retirement Income Plan for Salaried Employees of ASARCO, Inc. (collectively, the "Pension Plans"), which are covered by

Title IV of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1301-1461 (2000 and Supp. V 2005). ASARCO will satisfy its minimum funding obligations to the Pension Plans during the pendency of this proceeding, and through the Effective Date. In the event that one or both of the Pension Plans terminate during the pendency of this proceeding, certain claims will arise, including joint and several liabilities of the Debtors to PBGC that may be entitled to priority under various Bankruptcy Code provisions. As of the Effective Date, Reorganized ASARCO, and the members of its controlled group for purposes of ERISA, as applicable from time to time (the “Controlled Group”), shall be responsible for satisfying the minimum funding obligations to the Pension Plans subsequent to the Effective Date. In the event that one or both of the Pension Plans terminate subsequent to the Effective Date, the liability of Reorganized ASARCO, and the Controlled Group, to PBGC, if any, will not be affected by any provision of the Parent’s Plan or by confirmation of the Parent’s Plan, and, in particular but without limitation, any claims, if any, or other legal obligations relating to the Pension Plans shall not be discharged, released, or expunged, or be subject to Section 12.2 of the Parent’s Plan.

(e) Reorganized ASARCO shall assume and be responsible for all of the Debtors’ obligations to pay retiree benefits, as defined in section 1114 of the Bankruptcy Court, for the duration of the period the applicable Debtor has obligated itself to provide such benefits. After the Effective Date, Reorganized ASARCO shall retain their rights to amend, modify or terminate retiree benefits in accordance with all relevant agreements and applicable law, including any collective bargaining agreement that may be entered into between the USW and Reorganized ASARCO.

8.8 Surety Bonds. All Surety Bonds shall be retained or deemed Reinstated, as the case may be, on the Effective Date and shall revert to the benefit of Reorganized ASARCO.

## ARTICLE IX

### CONDITIONS TO EFFECTIVENESS

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

(a) *Disclosure Statement*.

The Bankruptcy Court has approved the Disclosure Statement.

(b) *Confirmation Findings and Conclusions*.

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

(1) As of the Petition Date, one or more of the Debtors has been named as a defendant in personal injury, wrongful death, or property damage actions

seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

(2) The Section 524(g) Treatment has been approved by creditors in Class 4 under the Parent's Plan in the requisite numbers and amounts required by sections 524(g), 1126, and 1129 of the Bankruptcy Code and by the FCR;

(3) On the Effective Date, the Section 524(g) Trust shall assume the liabilities of the Debtors with respect to the Asbestos Personal Injury Claims and Demands and shall receive all transfers and assignments set forth herein;

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

(5) The Section 524(g) Trust is to be funded in part by securities of Reorganized ASARCO and by the obligation of Reorganized ASARCO to make future payments;

(6) The Section 524(g) Trust shall be entitled to own, if specified contingencies occur, a majority of the voting shares of Reorganized ASARCO;

(7) The Section 524(g) Trust shall use its assets and income to pay the Asbestos Personal Injury Claims and Demands;

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

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

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

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

(12) The Section 524(g) Trust shall operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of Asbestos Personal Injury Claims and Demands, or other comparable mechanisms, that provide reasonable assurance that the Section 524(g) Trust will value, and be in a financial position to pay, all Asbestos Personal Injury Claims and Demands in substantially the same manner;

(13) The FCR was appointed by the Bankruptcy Court as part of the proceedings leading to the issuance of the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction for the purpose of, among other things, protecting the rights of persons that might subsequently assert Demands of the kind that are addressed in the Permanent Channeling Injunction and/or the Asbestos Insurance Company Injunction and that are to be assumed and paid by the Section 524(g) Trust in accordance with the Section 524(g) Trust Documents;

(14) In light of the respective benefits provided, or to be provided, to the Section 524(g) Trust by, or on behalf of, each ASARCO Protected Party, the Permanent Channeling Injunction is fair and equitable with respect to the persons that might subsequently assert Demands against any ASARCO Protected Party;

(15) In light of the respective benefits provided, or to be provided, to the Section 524(g) Trust by a Settling Asbestos Insurance Company in order to receive the benefits of the Asbestos Insurance Company Injunction, the Asbestos Insurance Company Injunction is fair and equitable with respect to the persons who might subsequently assert Demands against any Settling Asbestos Insurance Company;

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

(17) The Permanent Channeling Injunction and the Asbestos Insurance Company Injunction are integral parts of the Parent's Plan and may not be vacated, amended or modified after Confirmation except to the extent expressly provided in Article 11.3(a)(2) and 11.3(b)(2) of the Parent's Plan;

(18) The Parent's Plan complies with all applicable sections of the Bankruptcy Code, including, to the extent the Section 524(g) Treatment goes into effect, section 524(g) of the Bankruptcy Code;

(19) The Parent's Plan Documents which relate to the Section 524(g) Treatment are approved in all respects, and all parties thereto are authorized and directed to perform all their obligations thereunder; and

(20) Approval of all settlements and compromises embodied in the Section 524(g) Treatment is appropriate under Bankruptcy Rule 9019 and applicable law governing approval of such settlements and compromises and shall be ordered as part of the Confirmation Order.

(c) *Confirmation Order.*

(1) The Confirmation Date shall have occurred no later than July 31, 2009, except as may be otherwise agreed by the Parent and the Asbestos Representatives.

(2) The Confirmation Order entered or affirmed by the District Court is acceptable to the Parent.

(3) The Effective Date shall have occurred no later than August 31, 2009, except as may be otherwise agreed by the Parent and the Asbestos Representatives.

(d) *No Stay.*

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

(e) *Parent's Plan Documents.*

(1) The Parent's Plan Documents necessary or appropriate to implement the Parent's Plan, other than those which relate to the Section 524(g) Treatment, have been executed, in a form acceptable to the Parent, delivered and, where applicable, filed with the appropriate governmental or supervisory authorities.

(2) The Bankruptcy Court has approved the Parent's Plan Documents, other than those which relate to the Section 524(g) Treatment, in all respects and authorized and directed all parties thereto to perform all their obligations thereunder.

(f) *Funding and New Equity Interests.*

The Parent has delivered the Parent Contribution to the Parent's Plan Administrator except as may be otherwise agreed by the Parent and the Asbestos Representatives, ASARCO has transferred the Distributable Cash to the Parent's Plan Administrator, all interests in the Debtors have been canceled, and the New Equity Interests have been delivered to ASARCO USA Incorporated or its designee; it being understood that the failure of the Parent to provide the Parent Contribution will not relieve the Parent of its funding obligations under this Parent's Plan.

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

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

(h) *Approval of Parent's Plan Settlements.*

The Bankruptcy Court has approved all settlements and compromises embodied in the Parent's Plan, and has found that such settlements and compromises are appropriate under Bankruptcy Rule 9019 and applicable law governing such approval and such settlements and compromises shall be approved as part of the Confirmation Order.

9.2 Waiver of Conditions to Effectiveness. The Parent, in its sole discretion, may waive any condition to effectiveness in Article 9.1 of the Parent's 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 U.S. Trustee, the Debtors, the Committees, the FCR, and the DOJ; provided, however, that the Parent may not waive any condition to effectiveness in Articles 9.1(c)(1), 9.1(c)(3), or 9.1(f) without the consent of the Asbestos Representatives.

9.3 Notice of Effective Date. Reorganized ASARCO shall give notice of the Effective Date within five (5) Business Days after its occurrence.

9.4 Non-Occurrence of Effective Date. In the event that the Effective Date does not occur, all parties shall be returned to the position they would have held had the Confirmation Order not been entered, and nothing in the Parent's Plan, Disclosure Statement, or any Parent's 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 THE PARENT'S PLAN

10.1 Sources of Cash and Other Consideration for Distributions. On the Effective Date, (i) the Parent Contribution shall be delivered to the Parent's Plan Administrator; (ii) Reorganized ASARCO shall transfer the Distributable Cash to the Parent's Plan Administrator; (iii) Reorganized ASARCO shall deliver the ASARCO Note, the ASARCO Security Agreement and the ASARCO Deed of Trust to the Section 524(g) Trust; and (iv) ASARCO USA Incorporated or its designee that holds the equity interests in Reorganized ASARCO shall deliver the Parent Pledge Agreement to the Section 524(g) Trust.

On the Effective Date, the Parent and Reorganized ASARCO shall enter into the Working Capital Facility. Proceeds drawn from the Working Capital Facility, the Tax Refund, as discussed in Article 10.7, and proceeds of the Litigation Claims, if any, shall be used to fund Reorganized ASARCO's working capital needs.

Claims that will be Reinstated under the Parent's Plan shall be paid out of Reorganized ASARCO's operating cash flows unless otherwise provided in the Parent's Plan. For the avoidance of doubt, it is not a condition to the confirmation or effectiveness of the Parent's Plan that any particular Claim or Class has been Allowed by Final Order.

10.2 Appointment of Parent's Plan Administrator and Funding of Miscellaneous Parent's Plan Administration Accounts.

(a) Not less than ten days prior to commencement of the Confirmation Hearing, the Parent shall designate the Entity that shall initially serve as the Parent's Plan Administrator. Upon approval by the Bankruptcy Court in the Confirmation Order, the Parent's Plan Administrator shall be appointed. The Parent's Plan Administrator shall have and perform all of the duties, responsibilities, rights and obligations set forth in the Parent's Plan Administration Agreement. The Parent's Plan Administrator shall serve without bond, may employ or contract with other Persons to assist in the performance of the Parent's Plan Administrator's duties, which shall be set forth in the Parent's 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 Parent's 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) On the Effective Date (or as soon thereafter as is reasonably practicable), the Parent's Plan Administrator shall establish and fund the Parent's Plan Administration Account with sufficient Cash to pay the Parent's Plan Administrator's estimated compensation and expenses, and all other anticipated costs of administration of the Parent's Plan. The Parent's Plan Administrator shall also establish and fund Miscellaneous Parent's Plan Administration Accounts, including the Disputed Claims Reserve, the Disputed Secured Claims Escrow Account, and the Undeliverable and Unclaimed Distribution Reserve, and may also establish such general accounts as the Parent's Plan Administrator deems necessary and appropriate.

(c) On the Effective Date (or as soon thereafter as is reasonably practicable), the Parent's Plan Administrator shall (i) fund the Section 524(g) Trust with the Section 524(g) Trust Assets, (ii) either fund the Environmental Liquidation Trust with the Environmental Liquidation Trust Assets or, to the extent unanimously elected by the applicable federal and state agencies holding an Allowed Environmental Trust Claim with respect to a Designated Property, fund the Environmental Custodial Trust(s) with the Environmental Custodial Trust Assets, and (iii) fund the Disputed Claims Reserve as provided for in Article 13.8 hereof.

(d) The Parent's Plan Administrator shall allocate the funds in the Parent's Plan Administration Account to subaccounts corresponding to the enumerated functions of the Parent's Plan Administrator. Until the Parent's Plan Administrator has discharged its obligations, the funds in those subaccounts and the Miscellaneous Parent's Plan Administration Accounts may only be used for the purpose designated for that particular account or subaccount.

(e) To the extent there are any excess funds in the Parent's Plan Administration Account (or any subaccount thereof) or any Miscellaneous Parent's Plan Administration Account, the Parent's Plan Administrator shall make a Subsequent Distribution of such funds to Reorganized ASARCO to fund Reorganized ASARCO's working capital needs.

10.3 Distributions To Allowed Claims. On the Effective Date, the Parent's Plan Administrator shall pay the Allowed Claims that are to be paid on the Effective Date.



10.4 Release of Litigations. On the Effective Date, all causes of action identified in **Parent's Plan Exhibit 2** hereto shall be deemed, without any notice, the entry of any other order, or any other action by any party to have been released and dismissed or withdrawn with prejudice. All other causes of action or counts thereof of the Debtors and their estates, including, without limitation, those under chapter 5 of the Bankruptcy Code (or similar state or federal law), and the Asbestos Insurance Actions, shall continue and be pursued as provided in Article 10.12 but subject to Article 6.4, as applicable.

10.5 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 Parent's Plan Administrator shall succeed to ASARCO's administrative role, and will, in its sole discretion, act as Performing Entity (as defined in the Prepetition ASARCO Environmental Trust) from time to time, but will assume no affirmative liabilities or obligations associated with that role. In accordance with the documents governing it, the funds in the Prepetition ASARCO Environmental Trust shall continue to be available for, among other things, (i) identified work sites; (ii) interim costs prior to the effectiveness of the Parent's Plan; and (iii) any shortfalls or unanticipated costs or any other use permitted by the terms of the Prepetition ASARCO Environmental Trust (it being understood that the terms of certain environmental settlements were based on the assumption that certain previously identified, additional environmental response actions to be performed by ASARCO, the Parent's Plan Administrator or the United States would be reimbursed from the Prepetition ASARCO Environmental Trust). The Parent will make any remaining required contributions to the Prepetition ASARCO Environmental Trust.

(b) The funds remaining in the Prepetition ASARCO Environmental Trust shall be separate from and without prejudice to the distributions to be made to holders of Claims, as described in Article IV of the Parent's Plan.

10.6 Operations and Settlements Between the Confirmation Date and the Effective Date. Except as set forth herein with respect to the appointment of the Parent's 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. During the period from the Confirmation Date through and until the Effective Date, the Debtors shall not enter into or seek approval of any settlement(s) of any Claim(s) where the amount of such settlement, or the Allowed amount of such Claims, individually or in the aggregate, would be in excess of \$10 million, without prior written approval of the Parent.

10.7 Tax Refund. Unless the Tax Refund Adversary Proceeding has been determined by Final Order prior to the Effective Date, then on the Effective Date, the Tax Refund shall be transferred to Reorganized ASARCO for use as working capital following the Effective Date.

10.8 Limited Liability Company Agreement. On or as soon as reasonably practicable after the Effective Date, Reorganized ASARCO shall file an amended LLC Agreement (the “Amended LLC Agreement”) with the Secretary of State of the State of Delaware. The Amended LLC Agreement shall, in compliance with section 1123 of the Bankruptcy Code, prohibit the issuance of nonvoting equity securities and provide for an appropriate distribution of voting powers among classes of securities.

10.9 Management of Reorganized ASARCO. Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Parent shall disclose, by filing, on or prior to the Confirmation Date, a document disclosing the identity and affiliations of any person proposed to serve on the initial board of directors of Reorganized ASARCO or as an officer of Reorganized ASARCO. To the extent any such person is an insider, the nature of any compensation payable to such person shall be disclosed at such time. Reorganized ASARCO shall have a five-person board of directors, each of them nominated by the Parent. Each director and officer shall serve from and after the Effective Date pursuant to the terms of the amended Limited Liability Company Agreement, and applicable law.

10.10 Issuance of New Equity Interests in Reorganized ASARCO. On the Effective Date, in exchange for the Parent Contribution, the New Equity Interests shall be issued and delivered to ASARCO USA Incorporated or its designee. Except as otherwise provided in this Article X, Reorganized ASARCO shall continue its existence after the Effective Date. As further consideration for the New Equity Interests, the Parent and the Parent’s Affiliates shall waive all Administrative and General Unsecured Claims against the Debtors on the Effective Date.

10.11 Revesting.

(a) Except as otherwise expressly provided in the Parent’s Plan, on the Effective Date, all of ASARCO’s and its Estate’s property and assets shall vest in Reorganized ASARCO, free and clear of all Liens, Claims, charges and other encumbrances.

10.12 Vesting and Enforcement of Causes of Action. Any and all claims and causes of action, including, without limitation, the Litigation Claims, that were owned by ASARCO or its Estate as of the Effective Date, other than the Asbestos Insurance Actions, shall vest in Reorganized ASARCO on the Effective Date, and Reorganized ASARCO shall be the only Entity entitled to pursue such claims or causes of action. The Asbestos Insurance Actions shall vest in the Section 524(g) Trustees and may be pursued or compromised as deemed fit by the Section 524(g) Trustees, in their sole discretion, without need for approval of the Bankruptcy Court. The Released Litigation causes of actions or suits identified on **Parent’s Plan Exhibit 2** to the Parent’s Plan shall not vest in Reorganized ASARCO on the Effective Date, but rather shall be released as settled on the Effective Date.

10.13 Further Authorizations. Reorganized ASARCO, the Parent’s Plan Administrator, or the Parent may seek such orders, judgments, injunctions, and rulings as 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, the Parent’s Plan.

10.14 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 Reorganized ASARCO shall be authorized, to the extent consistent with Reorganized ASARCO'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 the Parent's Plan. The secretary or any assistant secretary of each Debtor and Reorganized ASARCO shall be authorized to certify or attest to any of the foregoing actions.

10.15 Corporate Action. All matters provided for under the Parent's Plan involving the corporate structure of the Debtors or Reorganized ASARCO, or any corporate action to be taken by, or required of the Debtors or Reorganized ASARCO, 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.

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

10.17 Approval of Section 524(g) Trust Documents. Confirmation of the Parent's Plan shall constitute approval pursuant to Bankruptcy Rule 9019 of the Section 524(g) Trust Documents, as evidenced by entry of the Confirmation Order.

10.18 Option to Create Work Trusts. The DOJ may at its option elect to establish work trusts for the purpose of receiving distributions made with respect to Allowed Claims that relate to specified environmental sites.

10.19 Approval of Mission Mine Settlement Agreement. Confirmation of the Parent's Plan shall cause the Mission Mine Settlement Agreement to be binding upon all landowners and allottees who own interests in the lands affected by the Mission Mine Settlement Agreement.

10.20 Wind Down of Subsidiary Debtors. On the Effective Date, (a) the Subsidiary Debtor Assets shall be transferred to Reorganized ASARCO free and clear of any and all Liens, Claims, encumbrances, or interests of any kind in such property of any Person or Entity except as provided in the Parent's Plan, (b) all assets of the Subsidiary Debtors other than the Subsidiary Debtor Assets shall be transferred to the Plan Administrator for the benefit of Reorganized ASARCO, free and clear of any and all Liens, Claims, encumbrances, or interests of any kind in such property of any Person or Entity except as provided in the Parent's Plan, and (c) all Interests in the Subsidiary Debtors shall be canceled. As soon as practicable after the Effective Date, the Plan Administrator shall liquidate all assets of the Subsidiary Debtors other than the Subsidiary Debtor Assets and shall transfer the proceeds of such liquidation to Reorganized ASARCO free and clear of any and all Liens, Claims, encumbrances, or interests of any kind in such proceeds of any Person or Entity except as provided in the Parent's Plan.

10.21 Deemed Consolidation of Debtors for Plan Purposes Only. Subject to the occurrence of the Effective Date, the Debtors shall be deemed consolidated under the Parent's Plan, solely for the limited purposes of voting and distribution under the Parent's Plan. Each and every Claim filed or to be filed against any of the Debtors shall be deemed filed against the deemed consolidated Debtors and shall be deemed one Claim against all Debtors and (a) any obligation of any Debtor and all guarantees thereof executed by one or more of the Debtors shall be deemed to be one obligation of all of the consolidated Debtors; (b) any Claims filed or to be filed in connection with any such obligation and such guarantees shall be deemed one Claim against the consolidated Debtors; (c) all duplicative Claims (identical in amount and subject matter) filed against one or more of the Debtors will be automatically expunged so that only one Claim survives against the consolidated Debtors; and (d) the consolidated Debtors will be deemed, for purposes of determining the availability of the right of set-off under section 553 of the Bankruptcy Code, to be one entity, so that, subject to other provisions of section 553 of the Bankruptcy Code, the debts due to a particular Debtor may be offset against the Claims against such Debtor or Debtors. Such deemed consolidation, however, shall not (other than for purposes related to funding distributions under this Plan and as set forth above in this section) affect: (i) any guarantees, liens, and security interests that are required to be maintained under this Plan; or (ii) distributions out of any insurance policies or proceeds of such policies.

## ARTICLE XI

### INJUNCTIONS, RELEASES, AND DISCHARGE

11.1 Discharge and Release. Except as otherwise expressly provided in the Parent's Plan, the rights afforded in the Parent's Plan and the treatment of all Claims, Demands, and Interests shall be in exchange for and in complete satisfaction, discharge, and release of all Claims, Demands, and Interests of any nature whatsoever, against any Debtor or its Estate, assets, properties or interests in property. Except as otherwise provided herein, on the Effective Date, all Claims and Demands against and Interests in the Debtors shall be satisfied, discharged, and released in full. The ASARCO Protected Parties shall not be responsible for any obligations of the Debtors except those expressly assumed by them in the Parent's Plan, provided, however, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in this Article and Article 11.9, then the protections in this Article with respect to ASARCO Protected Parties other than Reorganized ASARCO shall not go into effect.

11.2 Discharge Injunction. Except as otherwise expressly provided in the Parent's Plan, the discharge and release set forth in Article 11.1 shall also 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 or Demand discharged and released in Article 11.1 and (b) any cause of action, whether known or unknown, based on the same subject matter as any Claim or Demand discharged and released in Article 11.1. Except as otherwise expressly provided in the Parent's Plan, all Persons and Entities shall be precluded and forever barred from asserting against the ASARCO Protected Parties, their successors or assigns, or their assets, properties, or interests in property any other or further Claims or Demands, or any other right to legal or equitable relief regardless of whether such right can be reduced to a right to payment, based upon any act or

omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date, provided, however, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in this Article and Article 11.9, then the protections in this Article with respect to ASARCO Protected Parties other than Reorganized ASARCO shall not go into effect.

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

(a) *Permanent Channeling Injunction.*

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

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

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

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

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

(E) proceeding or taking any action, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Parent's Plan, the Parent's Plan Documents or the Section 524(g) Trust Documents relating to any Asbestos Personal Injury Claim or Demand.

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

(A) the rights of Entities to the treatment accorded them under Articles II and IV of the Parent's Plan, as applicable, including the rights of Entities with Asbestos Personal Injury Claims or Demands to assert such Asbestos Personal Injury Claims or Demands in accordance with the Section 524(g) Trust Distribution Procedures;

(B) the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment of Section 524(g) Trust Expenses against the Section 524(g) Trust;

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

(D) the rights of the Section 524(g) Trustees, if any, with regard to any Asbestos Insurance Company that is not a Settling Asbestos Insurance Company (with the Section 524(g) Trust being, and deemed to be, for all purposes of insurance and indemnity, the successor to the Debtors in respect of all Asbestos Personal Injury Claims and Demands and other recoveries from an Asbestos Insurance Company, in its capacity as such); or

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

(b) *Asbestos Insurance Company Injunction.*

(1) Terms. In order to preserve and promote the property of the Estate, as well as the settlements contemplated by and provided for in the Parent's Plan, and to supplement where necessary the injunctive effect of the discharge and releases provided for in the Parent's Plan, pursuant to sections 524(g) and 105(a) of the

Bankruptcy Code, all Entities which have held or asserted, which hold or assert, or which may in the future hold or assert any Claim, Demand or cause of action (including, without limitation, any Asbestos Personal Injury Claim or Demand or any Claim for or respecting any Section 524(g) Trust Expense) against a Settling Asbestos Insurance Company based upon, relating to, arising out of, attributable to, or in any way connected with any Asbestos Personal Injury Claim or Demand, Asbestos In-Place Insurance Coverage or an Asbestos Insurance Policy, shall be permanently and forever stayed, restrained, and enjoined from taking any action against such Settling Asbestos Insurance Company for the purpose of directly or indirectly collecting, recovering, or receiving payments, satisfaction, or recovery with respect to any such Claim, Demand or cause of action, including, without limitation:

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

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

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

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

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

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

(A) the rights of Entities to the treatment accorded them under Articles II and IV of the Parent's Plan, as applicable, including the rights of Entities with Asbestos Personal Injury Claims or Demands to assert Asbestos Personal Injury Claims or Demands against the Section 524(g) Trust in accordance with the Section 524(g) Trust Distribution Procedures;

(B) the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment of Section 524(g) Trust Expenses against the Section 524(g) Trust;

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

(D) the rights of the Section 524(g) Trustees, if any, with regard to any Asbestos Insurance Company that is not a Settling Asbestos Insurance Company (with the Section 524(g) Trust being, and deemed to be, for all purposes of insurance and indemnity, the successor to the Debtors in respect of all Asbestos Personal Injury Claims, Demands, and other recoveries from an Asbestos Insurance Company, in its capacity as such);

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

(F) the rights of the Section 524(g) Trust or the Section 524(g) Trustees to seek relief from the Asbestos Insurance Company Injunction should a Settling Asbestos Insurance Company fail to fulfill all obligations under an Asbestos Insurance Settlement Agreement.

11.4 Limitation of Injunctions. Notwithstanding any other provision of the Parent's Plan to the contrary, the releases set forth in Article 11.1 and the Injunctions set forth in Articles 11.2 and 11.3, respectively, shall not serve to satisfy, discharge, release, or enjoin Claims by any Entity against the Section 524(g) Trust for payment of (a) Asbestos Personal Injury Claims and Demands in accordance with the Section 524(g) Trust Distribution Procedures, or (b) Section 524(g) Trust Expenses, and such releases and/or Injunctions shall not enjoin Reorganized ASARCO or the Section 524(g) Trust from enforcing any Asbestos Insurance Policy or any Asbestos Insurance Settlement Agreement.

11.5 Exoneration and Reliance. To the extent allowable by law, none of the ASARCO Protected Parties shall be liable (other than for criminal liability, willful misconduct or bad faith, or ultra vires acts) to any holder of a Claim, Demand, or Interest or any other Entity with respect to any action, omission, forbearance from action, decision, or exercise of discretion taken at any time through the Effective Date in connection with (a) the management or operation of any of the Debtors or the discharge of its duties under the Bankruptcy Code, (b) the solicitation, negotiation, or implementation of any of the transactions provided for, or



contemplated in, the Parent's Plan or other Parent's Plan Documents, (c) any action taken in connection with either the enforcement of the rights of the Debtors against any Entities or the defense of Claims or Demands asserted against the Debtors with regard to the Reorganization Cases, (d) any action taken in the negotiation, formulation, preparation, development, proposal, solicitation, disclosure, Confirmation, or implementation of the Parent's Plan, other Parent's Plan Documents, or related agreements, instruments or other documents, (e) the administration of the Parent's Plan or the assets and property to be distributed pursuant to the Parent's Plan or (f) the administration of any of the Debtors' Estates. The ASARCO Protected Parties 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 shall prevent the enforcement of the terms of the Parent's Plan.

11.6 Post-524(g) Indemnity. The Post-524(g) Indemnity (as such term is defined in the Asbestos Insurance Settlement Agreement) shall go into effect on the Effective Date. Reorganized ASARCO shall indemnify and hold harmless, but not defend, the Settled Asbestos Insurance Companies, as provided in paragraph III.C of the Asbestos Insurance Settlement Agreement.

11.7 Additional Releases. To the 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, the ASARCO Protected Parties (acting in any capacity whatsoever) shall be forever released and discharged from any and all Claims, Demands, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities through the Effective Date (including all Claims and Demands based on or arising out of facts or circumstances that existed as of or prior to the Parent's Plan in any of the Reorganization Cases, including Claims and Demands based on negligence or strict liability, and further including any derivative claims asserted on behalf of any of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that any of the Debtors, their respective Estates, or Reorganized ASARCO would have been legally entitled to assert in its own right, whether individually or collectively) which any of the Debtors, their respective Estates, Reorganized ASARCO, Claimants, holders of Demands or other Persons receiving or who are entitled to receive distributions under the Parent's Plan may have against any of them in any way related to the Reorganization Cases or any of the Debtors (or their respective predecessors or Affiliates); provided, however, the releases provided for in this paragraph shall not extend to any claims by any governmental agency with respect to criminal liability, willful misconduct or bad faith, or ultra vires acts; and provided further, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in this Article and Articles 11.1 and 11.9, then the protections in this Article with respect to ASARCO Protected Parties other than the Debtors and Reorganized ASARCO shall not go into effect.

11.8 Exculpation. To the extent allowable by law, except in the case of a judicial finding by a Final Order of willful misconduct or bad faith, or any criminal liability or liability for ultra vires acts asserted by any Governmental Unit, no ASARCO Protected Party (acting in any capacity whatsoever) shall be liable to any Person or Entity for any action, failure or omission to act or other matter related to the Debtors or any of the Reorganization Cases,

including those activities described in Article 11.5 of the Parent's Plan, through and including the Effective Date. All parties are permanently enjoined from initiating a suit against any ASARCO Protected Party, except in the case of a judicial finding by a Final Order of actions for willful misconduct or bad faith, or any criminal liability or liability for ultra vires acts asserted by any Governmental Unit. Any such action by a non-Governmental Unit shall be brought in the Bankruptcy Court within 90 days after the Effective Date; provided, however, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in Article 11.8, then the protections in Article 11.8 with respect to ASARCO Protected Parties other than the Debtors and Reorganized ASARCO will not go into effect. Nothing in Article 11.8 will prevent the enforcement of the terms of the Parent's Plan.

11.9 Releases by Holders of Claims, Demands, and Interests. To the extent allowable by law, on the Effective Date, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, holders of Claims, Demands, and Interests receiving distributions under the Parent's Plan shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each of the Debtors, Reorganized ASARCO, the ASARCO Protected Parties, the Parent, and Grupo México from any and all Claims, Demands, Interests, obligations, rights, suits, damages, causes of action, remedies and liabilities whatsoever, including Claims and Demands based on negligence or strict liability, and including any derivative claims asserted on behalf of any of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that such holder of a Claim, Demand, or Interest would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, (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, Demand, or Interest, (4) the business or contractual arrangements between any of the Debtors and any ASARCO Protected Party, (5) the restructuring of Claims, Demands, and Interests prior to or in the Reorganization Cases, (6) the negotiation, formulation, or preparation of the Parent's Plan, the Parent's 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, other than Claims, Demands, or liabilities arising out of or relating to any action or omission of an ASARCO Protected Party that constitutes a failure to perform the duty to act in good faith, with the care of an ordinarily prudent person and in a manner the ASARCO Protected Party reasonably believed to be in the best interests of the Debtors (to the extent such duty is imposed by applicable non-bankruptcy law) where such failure to perform constitutes willful misconduct or gross negligence, provided, however, that if the Parent and Grupo México do not receive all protections provided for in the Parent's Plan, including, without limitation, those described in this Article, then the protections in this Article with respect to ASARCO Protected Parties other than the Debtors and Reorganized ASARCO shall not go into effect.

11.10 Release of Fraudulent Transfer Claims Against Settling Asbestos Insurance Companies. All fraudulent transfer claims against any Settling Asbestos Insurance Company arising under sections 544(b), 548, 549, or 550 of the Bankruptcy Code or otherwise with respect to the Claims, rights or interests released under the Asbestos Insurance Settlement Agreement shall be released, and the Section 524(g) Trust shall have no authority to bring any fraudulent transfer actions arising under any applicable state or other non-bankruptcy law against

any Settling Asbestos Insurance Company with respect to the Claims, rights and interests released under the Asbestos Insurance Settlement Agreement. This Article does not apply to any of the existing Avoidance Actions against certain Asbestos Insurance Companies that entered into prepetition settlement agreements.

11.11 No Release With Respect to Pension Plans. Notwithstanding any provision in this Article, or otherwise in the Parent's Plan, or in the Confirmation Order, there shall be no release of any claim asserted by PBGC with respect to the Pension Plans against any person, other than the Debtors.

## ARTICLE XII

### MATTERS INCIDENT TO PARENT'S PLAN CONFIRMATION

#### 12.1 Term of Certain Injunctions and Automatic Stay.

(a) All of the injunctions and/or stays provided for in or in connection with these Reorganization Cases, whether pursuant to section 105, section 362, section 524, or any other provision of the Bankruptcy Code, other applicable law, or court order, in effect immediately prior to Confirmation shall remain in full force and effect until the Injunctions become effective and thereafter if so provided by the Parent's Plan, the Confirmation Order, or by their own terms. In addition, on and after the Confirmation Date, the Parent may seek such further orders as it 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 the Parent's 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 any of the Debtors prior to the applicable Bar Date, no Claim of such taxing authority shall be Allowed against such Debtor or Reorganized ASARCO for taxes, penalties, interest, additions to tax, or other charges arising out of the failure, if any, of the applicable Debtor or Reorganized ASARCO, 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 taxable period ending before the Petition Date or arising out of an audit of any return for a taxable period ending before the Petition Date.

#### 12.3 No Successor Liability.

(a) Except as otherwise expressly provided in the Parent's Plan, none of the ASARCO Protected Parties shall be deemed a successor or successor-in-interest to any of 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 none shall be responsible for any successor or transferee liability of any kind or character.

(b) Except as otherwise expressly provided in the Parent's Plan, none of the ASARCO Protected Parties shall have any obligations to perform, pay, indemnify creditors for, or otherwise have any responsibilities for any liabilities or obligations of the Debtors or Reorganized ASARCO, whether arising before, on, or after the Confirmation Date.

#### 12.4 Insurance Neutrality.

(a) Confirmation of the Parent's 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 Bankruptcy Court's May 29, 2008 Order Extending Scope of Insurance Neutrality Addendum Attached to Order Approving Compromise and Settlement Regarding Resolution of Derivative Asbestos Claims (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 and/or scope of its rights and/or obligations regarding asbestos-related liabilities, if any, and shall not have any impact, effect or consequence in any such other context.

(b) Neither the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company nor the Section 524(g) 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 Bankruptcy Court's Insurance Neutrality Order and concerning issues related to insurance coverage, that any findings or conclusions concerning 11 U.S.C. § 524(g) and/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 the Parent's 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/or *Fuller-Austin Insulation Co. v. Fireman's Fund Ins. Co.*, 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 any of the Debtors and transferred to the Section 524(g) Trustees in accordance with the provisions hereof. Nothing herein shall limit the ability of the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company or the Section 524(g) Trust to offer the Parent's Plan, any of the Parent's 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 Section 524(g) Trust are so bound.

(c) Nothing in the Parent's Plan shall operate to expand the rights of the Debtors, any of the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company or the Section 524(g) 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 Bankruptcy Court's Insurance Neutrality Order as of the Petition Date except as set out in Article 12.4(f) below. Moreover, nothing in the Confirmation process

shall in any way operate to, or have the effect of, impairing, prejudicing or expanding such Asbestos Insurance Company's legal, equitable, or contractual rights in any respect, or of increasing, accelerating, creating, or triggering such Asbestos Insurance Company's insurance coverage obligations, if any, in comparison to what those respective rights or obligations would have been if the Parent's Plan had not been confirmed except as set out in Article 12.4(f) below; and all of such Asbestos Insurance Company's rights are expressly reserved and preserved. Such Asbestos Insurance Company's rights shall be determined pursuant to its insurance policies with the applicable 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 the Debtors' asbestos-related liabilities for or such Asbestos Insurance Company's obligations to indemnify the applicable 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 the Parent's 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 applicable Debtors on account of any asbestos-related liabilities. Without limiting the foregoing, except as set out in Article 12.4(f) below, no proceedings undertaken pursuant to or otherwise as part of the Confirmation process (including without limitation, any evidentiary hearings or any findings or conclusions constituting or relating to the determination of any Alter Ego Theories, contained in or referenced in any decision, order, finding, conclusion or judgment of the Bankruptcy Court) shall constitute a trial or hearing on the merits, or an adjudication, Final Order, settlement, or finding of liability binding on such Asbestos Insurance Company for any purpose concerning insurance coverage for asbestos-related liability, or be used as evidence or offered into evidence in any proceeding to prove that such Asbestos Insurance Company participated in and/or consented to the procedures undertaken pursuant to the Parent's 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 the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company or the Section 524(g) Trust may offer the Parent's Plan, any of the Parent's 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 ASARCO Committee, 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 Bankruptcy Court's Insurance Neutrality Order, nothing in or part of the Parent's 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 Bankruptcy Court’s Insurance Neutrality Order does not participate in the negotiation, nor the Confirmation, of the Parent’s 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 and/or scope of such Asbestos Insurance Company’s rights and/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 and/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 and/or scope of such Asbestos Insurance Company’s rights and/or obligations regarding asbestos-related liabilities, if any, any coverage defenses based on collusion against and/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 the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants’ Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company, or the Section 524(g) Trust may offer in any court, including any court resolving any insurance coverage litigation, any relevant portion of the Parent’s Plan and any of the Parent’s Plan Documents and/or the Confirmation Order for any purpose, including, without limitation, that the Parent’s Plan was a reasonable settlement; provided, however, such offer shall be subject to the rights, defenses (including affirmative defenses) and objections, if any, of the Debtors, the Asbestos Subsidiary Debtors, the Asbestos Claimants’ Committee, the ASARCO Committee, the FCR, an Asbestos Insurance Company and the Section 524(g) Trust.

### ARTICLE XIII

#### PROVISIONS GOVERNING DISTRIBUTIONS

13.1 Plan Distributions. All distributions or payments required or permitted to be made under the Parent’s Plan, other than to holders of Asbestos Personal Injury Claims and Demands, holders of General Unsecured Claims and/or Professional Persons, shall be made by the Parent’s Plan Administrator on the Effective Date and thereafter by the Parent’s Plan Administrator at the time or times and in the manner provided herein, unless otherwise ordered by the Bankruptcy Court. Distributions to holders of Asbestos Personal Injury Claims and Demands shall be made by the Section 524(g) Trust in accordance with the Section 524(g) Trust Documents. Distributions to Professional Persons shall be made by the Parent’s Plan Administrator on the Effective Date and thereafter by the Parent’s 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. Except as otherwise expressly provided in the Parent's 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 maintained by the Claims Agent. Nonetheless, if such holder holds such Claims through a Nominee, distributions with respect to such Claims shall be made to such Nominee, and such Nominee shall, in turn, make appropriate distributions and book entries to reflect such distributions to such holders.

All distributions on account of Allowed Bondholder Claims shall be made to the respective Indenture Trustee for the particular issue of Bonds.

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.



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 revert 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, an amount equal to the Allowed Claim as if such Claim had been an Allowed Claim on the Effective Date. With respect to Claims that are Reinstated, the Parent's Plan Administrator will distribute from the Disputed Claims Reserve to the holder of any Disputed Claim that is allowed by an unstayed order of a court of competent jurisdiction, not later than the tenth Business Day after the end of the calendar month in which such order is entered, 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 as a Subsequent Distribution the Cash reserved in respect of such disallowed Disputed Claim in accordance with the terms and conditions of the Parent's Plan and the Confirmation Order.

(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 shall be the "administrator" of the Disputed Claims Reserve pursuant to Treasury Regulation section 1.468B-9(b)(2). In general, the Disputed Claims Reserved will be treated in the same manner as a "qualified settlement fund" for federal income tax purposes. The Parent's Plan Administrator shall cause all taxes imposed on the Disputed Claims Reserve to be paid using assets of the

Disputed Claims Reserve and shall 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: (1) 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 DTC 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 DTC, 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 DTC 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, the Environmental Liquidation Trustee 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) reduce the size of the Disputed Claims Reserve based upon the amount of the remaining Disputed Claims or other changed circumstances, including increases in Reorganized ASARCO's cash positions;

(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: (a) the Bankruptcy Court or District Court in fact have jurisdiction with respect to any Asbestos Insurance Action or Asbestos Insurance Recovery; (b) any such jurisdiction is exclusive with respect to any Asbestos Insurance Action or Asbestos

Insurance Recovery; or (c) 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. Except as provided above, the Committees shall be dissolved on the Effective Date, and the members, attorneys, accountants, and other professionals thereof shall be released and discharged of and from all further authority, duties, responsibilities, liabilities, and obligations related to, or arising from, the Reorganization Cases.

15.6 Modification of 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 effected 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 and/or Environmental Liquidation Trust, as applicable.

15.14 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.

15.15 Consent to Jurisdiction. Except for the matters within the exclusive jurisdiction of the District Court as described in Article 15.4 hereof, the Debtors, Reorganized ASARCO, the 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.

15.16 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.

15.17 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 the Parent's 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, 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.

15.20 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:

**The Parent**

Americas Mining Corporation  
ASARCO Incorporated  
Attn: Jorge Lazalde Psihas  
11811 North Tatum Blvd.  
Suite 2500  
Phoenix, AZ 85028

Robert Jay Moore  
Milbank, Tweed, Hadley & M<sup>c</sup>Cloy LLP  
601 South Figueroa Street, 30th Floor  
Los Angeles, CA 90017  
Telephone: (213) 892-4000  
Facsimile: (213) 629-5063

Robert E. Winter  
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1850 K Street, 11th Floor  
Washington, DC 20006  
Telephone: (202) 835-7500  
Facsimile: (202) 835-7586

Charles A. Beckham, Jr.  
Haynes and Boone, LLP  
1 Houston Center  
1221 McKinney, Suite 2100  
Houston, Texas 77010  
Telephone: (713) 547-2000  
Facsimile: (713) 547-2600

**The Debtors**

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Baker Botts L.L.P.  
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Dallas, TX 75201-2980  
Facsimile: (214) 661-4727  
Email: jack.kinzie@bakerbotts.com

Shelby A. Jordan  
Jordan, Hyden, Womble, Culbreth, & Holzer, P.C.  
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500 North Shoreline  
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**Counsel for the Asbestos Claimants' Committee**

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felsenthal@sbep-law.com

**The FCR**

Judge Robert C. Pate  
Frost Bank Plaza  
802 North Carancahua, Suite 1350  
Corpus Christi, TX 78470-0165  
Facsimile: (361) 887-6207  
Email: [judgepate@swbell.net](mailto:judgepate@swbell.net)

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

**The DOJ**

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

**[Remainder of page intentionally blank.]**

Dated: May 15, 2009

Respectfully submitted,

ASARCO INCORPORATED, a Delaware corporation

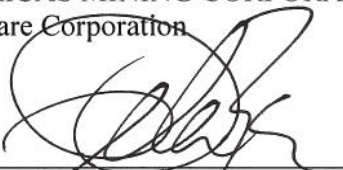
By: 

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

**PARENT'S DS EXHIBIT C**

**ORDER APPROVING THE DISCLOSURE STATEMENT**

**[\*pending\*]**

**PARENT'S DS EXHIBIT D**

**PARENT'S LIQUIDATION ANALYSIS**

**[\*To be filed prior to the Disclosure Statement Hearing\*]**



**PARENT'S DS EXHIBIT E**

**ESTIMATED ADMINISTRATIVE EXPENSES OF THE TRUSTS AND  
THE DEBTOR'S PLAN ADMINISTRATOR**

<b>ENTITY</b>	<b>ESTIMATED FEES AND EXPENSES</b> (in millions of dollars)
Section 524(g) Trust	\$27.5
Plan Administrator	[TBD]
Environmental Liquidation Trust	\$27.5 <sup>1</sup>
Environmental Custodial Trust(s)	Up to \$ \$14.6 <sup>2</sup>

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<sup>1</sup> Subject to reduction for every Designated Elected Property transferred to an Environmental Custodial Trust. See Parent's Plan Exhibit 16-A.

<sup>2</sup> To be determined by the number and nature of Designated Elected Properties transferred to the Environmental Custodial Trust(s). See Parent's Plan Exhibit 16-B.

**PARENT'S DS EXHIBIT F**

**CURRICULUM VITAE OF THE FCR, JUDGE ROBERT C. PATE**

**See the CURRICULUM VITAE OF THE FCR, JUDGE ROBERT C. PATE,  
attached to the Debtors' Disclosure Statement at Exhibit I**

**PARENT'S DS EXHIBIT G**

**FINANCIAL INFORMATION REGARDING DEBTORS**

**[\*To be filed prior to the Disclosure Statement Hearing\*]**