

(c) (i) purchase money Indebtedness of the Borrower and its Subsidiaries, including any such Indebtedness assumed in connection with a Permitted Acquisition, (ii) Capitalized Lease Obligations of the Borrower and its Subsidiaries, including any such obligations assumed in connection with a Permitted Acquisition, and (iii) Indebtedness incurred to finance the acquisition, construction or improvement of any fixed or capital assets (“*Project Indebtedness*”), including any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on such assets before the acquisition thereof, and any refinancings of any such Project Indebtedness; *provided* that, with respect to Project Indebtedness permitted by clause (iii) of this Section, (w) such Project Indebtedness is initially incurred before or within 180 days after such acquisition or the completion of such construction or improvement, (x) such Project Indebtedness shall be secured only by the Property acquired, constructed or improved in connection with the incurrence of such Project Indebtedness, (y) with respect to such Project Indebtedness assumed in connection with a Permitted Acquisition, the amount of such Project Indebtedness shall not exceed 60% of the Total Consideration paid in connection with such Permitted Acquisition and (z) with respect to Project Indebtedness incurred to finance the acquisition of any fixed or capital assets, such Project Indebtedness shall constitute not less than 80% of the aggregate consideration paid with respect to such Property;

(d) customer advances for prepayment of ore sales;

(e) (i) Indebtedness outstanding on the Closing Date and listed on Schedule 6.11 and Indebtedness under the Multi-Currency Credit Agreement among the Borrower, the lenders party thereto and Fifth-Third Bank, as administrative agent, dated June 23, 2006 (as amended and as may be further amended, restated or otherwise modified from time to time (the “*Existing Credit Agreement*”) and (ii) refinancings or renewal thereof; *provided* that any such refinancing or renewed Indebtedness is in an aggregate principal amount not greater than the aggregate principal amount of the Indebtedness being renewed or refinanced, *plus* the amount of any premiums required to be paid thereon and reasonable fees and expenses associated therewith;

(f) Other Hedging Liability to any Person, in all cases incurred in the ordinary course of business and not for speculative purposes;

(g) Indebtedness in respect of bid, performance, surety, reclamation or other similar bonds or guaranties in the ordinary course of business, or any similar financial assurance obligations under Environmental Laws or worker’s compensation laws or with respect to self-insurance obligations, including guarantees or obligations with respect to letters of credit supporting such obligations (in each case other than for an obligation for money borrowed);

(h) Contingent Obligations in respect of (i) Indebtedness otherwise permitted under this Section 6.11 and under Section 6.13 and (ii) Indebtedness owed by Amapa in an amount not to exceed U.S. \$275,000,000 incurred for the purpose of financing the development and construction of an iron ore mine and related facilities (the “*Amapa Project*”) located in the municipality of Pedra Branca do Amapari, in the State of Amapa, in the northern region of Brazil, a dedicated railroad for the Amapa Project and a port terminal for the Amapa Project located in Santana, State of Amapa in Brazil, and for financing working capital related thereto; *provided* that such Contingent Obligations of Amapa Indebtedness shall be limited to U.S. \$90,000,000;

(i) secured Indebtedness assumed in connection with a Permitted Acquisition; *provided* that, (i) such Indebtedness was not incurred in contemplation of such Permitted Acquisition, and (ii) after giving effect to the incurrence of such Indebtedness, the Borrower and its Subsidiaries would be in *pro forma* compliance with the covenants set forth in Section 6.19; *provided, further*, that the aggregate outstanding principal amount of all such secured Indebtedness shall not exceed U.S. \$30,000,000 at any time outstanding;

(j) Indebtedness incurred in connection with any sale/leaseback transaction permitted pursuant to Section 6.14(e) hereof; and

(k) unsecured Indebtedness of the Borrower and its Subsidiaries not otherwise permitted by this Section, so long as, after giving effect to such Indebtedness, no Default or Event of Default shall exist, including with respect to the covenants contained in Section 6.19 hereof on a *pro forma* basis.

*Section 6.12 Liens.* The Borrower will not, nor will it permit any of its Subsidiaries to, create, incur or suffer to exist any Lien on any of its Property; *provided* that the foregoing shall not prevent the following (the Liens described below, the “*Permitted Liens*”):

(a) Standard Permitted Liens;

(b) Liens on Property of the Borrower or any Subsidiary created solely for the purpose of securing Indebtedness permitted by Section 6.11(c) hereof, representing or incurred to finance such Property, *provided* that, with respect to Indebtedness described in clauses (i) and (ii) of such Section, no such Lien shall extend to or cover other Property of the Borrower or such Subsidiary other than the respective Property so acquired, and the principal amount of Indebtedness secured by any such Lien shall at no time exceed the purchase price of such Property, as reduced by repayments of principal thereon;

(c) any Lien in existence on the Closing Date and set forth on Schedule 6.12, any continuation or extension thereof or any Lien granted as a replacement or substitute therefor; *provided* that any such continued, extended, replacement or substitute Lien (i) except as permitted by Section 6.11, does not secure an aggregate amount of Indebtedness, if any, greater than that secured on the Closing Date, and (ii) does not encumber any Property other than the Property subject thereto on the Closing Date and any products or proceeds thereof to the extent covered by such Lien;

(d) Liens on Property of the Borrower or any Subsidiary created solely for the purpose of securing Indebtedness permitted by Section 6.11(i); *provided* that any such Liens attach only to the Property acquired pursuant to such Permitted Acquisition and do not encumber any other Property (other than any products or proceeds thereof to the extent covered by such Liens);

(e) Liens on Property of the Borrower any Subsidiary created solely for the purpose of securing Indebtedness permitted by Section 6.11(j); *provided* that any such Liens attach only to the Property being leased or acquired pursuant to such Indebtedness and do not encumber any other Property (other than any products or proceeds thereof to the extent covered by such Liens);

(f) Liens solely on any cash earnest money deposits in connection with any letter of intent or purchase agreement entered into in connection with a Permitted Acquisition;

(g) Liens on cash or Cash Equivalents securing reimbursement obligations with respect to any standby letter of credit entered into in the ordinary course of business; *provided* that the aggregate stated amount of such letters of credit at any time outstanding shall not exceed U.S. \$25,000,000;

(h) Liens solely on the assets of the Cliffs Sonoma Entities in favor of the Cliffs Sonoma Entities' joint venture partners in Sonoma; *provided*, that such Liens shall secure only amounts owed by Sonoma and the Cliffs Sonoma Entities to such joint venture partners;

(i) other Liens with respect to obligations that do not in the aggregate exceed U.S. \$5,000,000 at any time outstanding, and

(j) the Liens granted pursuant to the Existing Credit Agreement and the documents executed in connection therewith.

*Section 6.13 Restrictions on Joint Ventures.* The Borrower will not (a) permit any Joint Venture that is not a Subsidiary to contract, create, incur, assume or suffer to exist any Contingent Obligations, (b) agree to the waiver of any provision existing as of the Closing Date that prohibits Liens on any of the capital stock or other equity interests of any Joint Venture, or (c) permit any Joint Venture that is not a Subsidiary to create, incur or suffer to exist any Lien on any of its Property; *provided* that the foregoing shall not prevent the following (the Liens described in clauses (i) through (v) below, the "*Permitted JV Liens*"):

(i) Standard Permitted Liens;

(ii) Liens on Property of such Joint Venture, which Liens are created solely for the purpose of securing purchase money Indebtedness and Capitalized Lease Obligations of such Joint Venture and which Liens represent or were incurred to finance the purchase price of such Property; *provided* that no such Lien shall extend to or cover other Property of such Joint Venture other than the respective Property so acquired, and the principal amount of Indebtedness secured by any such Lien shall at no time exceed the purchase price of such Property, as reduced by repayments of principal thereon;

(iii) any Lien on any Property of those Joint Ventures described on Schedule 6.13 hereof (the "*Mesabi Joint Ventures*");

(iv) any Lien in existence on the Closing Date and set forth on Schedule 6.13, any continuation or extension thereof or any Lien granted as a replacement or substitute therefore; *provided* that any such continued, extended, replacement or substitute Lien (i) does not secure an aggregate amount of Indebtedness, if any, greater than that secured on the Closing Date, and (ii) does not encumber any Property other than the Property subject thereto on the Closing Date and any products or proceeds thereof to the extent covered by such Lien;

(v) Liens on cash or Cash Equivalents securing reimbursement obligations with respect to any standby letter of credit entered into in the ordinary course of business;

(vi) Contingent Obligations of Mesabi Joint Ventures; and

(vii) Indebtedness in respect of bid, performance, surety, reclamation or other similar bonds or guaranties in the ordinary course of business, or any similar financial assurance obligations under Environmental Laws or worker's compensation laws or with respect to self-insurance obligations, including guarantees or obligations with respect to letters of credit supporting such obligations (in each case other than for an obligation for money borrowed).

*Section 6.14 Consolidation, Merger, Sale of Assets, etc.* The Borrower will not, nor will it permit any of its Subsidiaries to, wind up, liquidate or dissolve its affairs or agree to any merger or consolidation, or convey, sell, lease or otherwise dispose of all or any part of its operating properties, including any disposition as part of any sale-leaseback transactions except that this Section shall not prevent:

(a) the sale and lease of inventory in the ordinary course of business;

(b) the sale, transfer or other disposition of any tangible personal property that, in the reasonable judgment of the Borrower or its Subsidiaries, has become uneconomic, obsolete or worn out;

(c) the sale, transfer, lease, or other disposition of Property of the Borrower and its Wholly-owned Subsidiaries to one another;

(d) the merger of any Wholly-owned Subsidiary with and into the Borrower or any other Wholly-owned Subsidiary, *provided* that, (i) in the case of any merger involving the Borrower, the Borrower is the legal entity surviving the merger and (ii) in the case of any merger involving a Domestic Subsidiary and a Foreign Subsidiary, the Domestic Subsidiary is the legal entity surviving the merger;

(e) the sale, transfer, lease, or other disposition of Property of the Borrower or any Subsidiary (including any disposition of Property as part of a sale and leaseback transaction) aggregating for the Borrower and its Subsidiaries not more than U.S. \$10,000,000 during any fiscal year of the Borrower;

(f) the sale of Polymet Mining Corp. common stock by the Borrower;

(g) the sale of all of the stock of or all or substantially all of the assets of (i) Cliffs Synfuel Corp. and (ii) Lasco Development Corporation;

(h) any Subsidiary may dissolve, liquidate or wind up its affairs at any time; *provided* that such dissolution, liquidation or winding up, as applicable, would not reasonably be expected to result in a Material Adverse Effect;

(i) licenses or leases of real or personal property in the ordinary course of business so long as such licenses or leases do not individually or in the aggregate interfere in any material respect with the ordinary conduct of the business of the Borrower and its Subsidiaries;

(j) licenses, sublicenses or similar transactions of intellectual property in the ordinary course of business so long as such licenses or sublicenses or similar transactions do not individually or in the aggregate interfere in any material respect with the ordinary conduct of the business of the Borrower and its Subsidiaries;

(k) the sale or other disposition of those Investments permitted by clauses (f), (l) and (p) of the definition of Restricted Investments; and

(l) any merger or consolidation of the Borrower or any Subsidiary in connection with a Permitted Acquisition, *provided* that (i) subject to the following clause (ii), in the case of any merger involving any Wholly-owned Subsidiary, the Wholly-owned Subsidiary is the legal entity surviving the merger, (ii) in the case of any merger involving the Borrower, the Borrower is the legal entity surviving the merger, and (iii) in the case of any merger involving a Foreign Subsidiary and a Domestic Subsidiary, the Domestic Subsidiary is the legal entity surviving the merger.

*Section 6.15 Restricted Investments Prohibited.* The Borrower will not, nor will it permit any of its Subsidiaries to, have, make or authorize any Restricted Investments.

*Section 6.16 Dividends and Certain Other Restricted Payments.* After the occurrence and during the continuation of a Default or an Event of Default, the Borrower shall not, nor shall it permit any of its Subsidiaries to, (a) declare or pay any dividends on or make any other distributions in respect of any class or series of its capital stock or other equity interests (other than a dividend payable solely in stock or other equity interests) or (b) directly or indirectly purchase, redeem, or otherwise acquire or retire any of its capital stock or other equity interests or any warrants, options, or similar instruments to acquire the same; *provided, however*, that the foregoing shall not operate to prevent the making of dividends or distributions by any Subsidiary of the Borrower to its parent corporation.

*Section 6.17 Limitation on Restrictions.* Except as provided on Schedule 6.17 hereto, the Borrower will not, and it will not permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any restriction on the ability of any such Subsidiary to (a) pay dividends or make any other distributions on its capital stock or other equity interests owned by the Borrower or any other Subsidiary, (b) pay or repay any Indebtedness owed to the Borrower or any other Subsidiary, (c) make loans or advances to the Borrower or any other Subsidiary, (d) transfer any of its Property to the Borrower or any other Subsidiary, (e) encumber or pledge any of its assets to or for the benefit of the Administrative Agent or (f) guaranty the Obligations, Hedging Liability and Funds Transfer and Deposit Account Liability except for such restrictions existing under or by reason of (i) applicable law; (ii) this Agreement and the other Loan Documents; (iii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Subsidiary; (iv) customary provisions restricting assignment of any agreement entered into by the Borrower or any Subsidiary in the ordinary course of business; (v) any holder of a Permitted

Lien restricting the transfer of the Property subject thereto; (vi) customary restrictions and conditions contained in any agreement relating to the sale of any Property permitted under Section 6.14 hereof pending the consummation of such sale; (vii) any agreement in effect at the time any Subsidiary becomes a Subsidiary, so long as such agreement was not entered into in connection with or in contemplation of such person becoming a Subsidiary; (viii) in the case of any Joint Venture, restrictions in such person's organizational documents or pursuant to any joint venture agreement or stockholders agreements solely to the extent of the equity interests of or Property held in the subject Joint Venture; (ix) any agreements evidencing Indebtedness incurred pursuant to Section 6.11(c), (e), (i), (j), or (k); or (x) any encumbrances or restrictions imposed by any amendments or refinancings that are otherwise permitted by the Loan Documents of the agreements referred to in clause (vii) above; *provided* that such amendments or refinancings are no more materially restrictive with respect to such encumbrances and restrictions than those prior to such amendment or refinancing.

*Section 6.18 OFAC.* The Borrower will not, nor will it permit any of its Subsidiaries to, (i) become a person whose property or interests in property are blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Party and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079(2001)), (ii) engage in any dealings or transactions prohibited by Section 2 of such executive order, or be otherwise associated with any such person in any manner violative of Section 2, or (iii) otherwise become a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

*Section 6.19 Financial Covenants. (a) Minimum EBITDA.* The Borrower shall not, as of the last day of each fiscal quarter of the Borrower during the periods specified below, permit EBITDA for four fiscal quarters of the Borrower then ended to be less than \$200,000,000.

*(b) Maximum Ratio of Total Funded Debt to EBITDA.* The Borrower shall not, as of the last day of each fiscal quarter of the Borrower, permit the ratio of Total Funded Debt at such time to EBITDA for the four fiscal quarters of the Borrower then ended to be more than 2.50 to 1.00.

*(c) Minimum Fixed Charge Coverage Ratio.* The Borrower shall not, as of the last day of each fiscal quarter of the Borrower, permit the Fixed Charge Coverage Ratio at such time to be less than 3.00 to 1.00.

*Section 6.20 Limitation on Non-Material Subsidiaries.* The Borrower shall not permit (i), at any time, the aggregate book value of the assets of all Domestic Subsidiaries that are not Material Subsidiaries to exceed 30% of the value of the consolidated assets of the Borrower and its Subsidiaries or (ii), as of the last day of each fiscal quarter of the Borrower, the aggregate revenues of all Domestic Subsidiaries that are not Material Subsidiaries for the four fiscal quarters of the Borrower then-ended to exceed 30% of the consolidated revenues of the Borrower and its Subsidiaries for such four fiscal quarters.

*Section 6.21 Limitation on Assets and Operations of Cliffs Sonoma Entities.* The Borrower shall not permit the Cliffs Sonoma Entities to own any assets other than in connection

with Sonoma and any other assets necessary or incidental thereto, and the Borrower shall not permit the Cliffs Sonoma Entities to engage in any business or activity other than in connection with Sonoma and any other activities necessary or incidental thereto.

## SECTION 7. EVENTS OF DEFAULT AND REMEDIES.

*Section 7.1 Events of Default.* Any one or more of the following shall constitute an “*Event of Default*” hereunder:

(a) default in the payment when due (whether at the stated maturity thereof or at any other time provided for in this Agreement) of (i) all or any part of the principal of or (ii) interest on any Note or any other Obligation payable hereunder or under any other Loan Document which in the case of this clause (ii) is not paid within 5 Business Days;

(b) default in the observance or performance of any covenant set forth in Sections 6.4, 6.11, 6.12, 6.13, 6.14, 6.15, 6.17, 6.18 or 6.19 hereof;

(c) default in the observance or performance of any other provision hereof or of any other Loan Document which is not remedied within 30 days after the earlier of (i) the date on which such failure shall first become known to any Responsible Officer or (ii) written notice thereof is given to the Borrower by the Administrative Agent;

(d) any representation or warranty made by the Borrower or any of its Subsidiaries herein or in any other Loan Document, or in any statement or certificate furnished by it pursuant hereto or thereto, or in connection with any Loan or Letter of Credit made or issued hereunder, proves untrue in any material respect as of the date of the issuance or making thereof;

(e) any of the Loan Documents shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void, or the Borrower or any of its Subsidiaries takes any action for the purpose of terminating, repudiating or rescinding any Loan Document executed by it or any of its obligations thereunder that is not permitted hereunder;

(f) default shall occur under (i) any Indebtedness of the Borrower or any of its Subsidiaries aggregating in excess of U.S. \$20,000,000, or under any indenture, agreement or other instrument under which the same may be issued, and such default shall continue for a period of time sufficient to permit the acceleration of the maturity of any such Indebtedness (whether or not such maturity is in fact accelerated), or any such Indebtedness shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise) or (ii) any Hedge Agreement of the Borrower or any Subsidiary with any Lender or any Affiliate of a Lender;

(g) any judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, shall be entered or filed against the Borrower or any of its Subsidiaries, or against any of its Property, in an aggregate amount in excess of U.S. \$20,000,000 (except to the extent fully (excluding any deductibles or self-insured retention) covered by insurance pursuant to which the insurer has accepted liability therefor in writing), and which remains undischarged, unvacated, unbonded or unstayed for a period of 30 days;

(h) the Borrower or any of its Subsidiaries, or any member of its Controlled Group, shall fail to pay when due an amount or amounts aggregating in excess of U.S. \$3,000,000 which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Vested Liabilities in excess of U.S. \$3,000,000 (collectively, a “*Material Plan*”) shall be filed under Title IV of ERISA by the Borrower or any of its Subsidiaries, or any other member of its Controlled Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against the Borrower or any of its Subsidiaries, or any member of its Controlled Group, to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated;

(i) any Change of Control shall occur;

(j) the Borrower or any of its Subsidiaries shall (i) have entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, or any comparable law of any foreign jurisdiction, (ii) not pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) take any corporate action in furtherance of any matter described in parts (i) through (v) above, or (vii) fail to contest in good faith any appointment or proceeding described in Section 7.1(k) hereof; or

(k) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for the Borrower or any of its Subsidiaries, or any substantial part of any of its Property, or a proceeding described in Section 7.1(j)(v) shall be instituted against the Borrower or any of its Subsidiaries, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of 60 days.

*Section 7.2 Non-Bankruptcy Defaults.* When any Event of Default other than those described in subsection (j) or (k) of Section 7.1 hereof has occurred and is continuing, the Administrative Agent shall, by written notice to the Borrower: (a) if so directed by the Required Lenders, terminate the remaining Commitments and all other obligations of the Lenders hereunder on the date stated in such notice (which may be the date thereof); (b) if so directed by the Required Lenders, declare the principal of and the accrued interest on all outstanding Notes to be forthwith due and payable and thereupon all outstanding Notes, including both principal and interest thereon, shall be and become immediately due and payable together with all other amounts payable under the Loan Documents without further demand, presentment, protest or notice of any kind; and (c) if so directed by the Required Lenders, demand that the Borrower



immediately pay to the Administrative Agent the full amount then available for drawing under each or any Letter of Credit, and the Borrower agrees to immediately make such payment and acknowledges and agrees that the Lenders would not have an adequate remedy at law for failure by the Borrower to honor any such demand and that the Administrative Agent, for the benefit of the Lenders, shall have the right to require the Borrower to specifically perform such undertaking whether or not any drawings or other demands for payment have been made under any Letter of Credit. The Administrative Agent, after giving notice to the Borrower pursuant to Section 7.1(c) or this Section 7.2, shall also promptly send a copy of such notice to the other Lenders, but the failure to do so shall not impair or annul the effect of such notice.

*Section 7.3 Bankruptcy Defaults.* When any Event of Default described in subsections (j) or (k) of Section 7.1 hereof has occurred and is continuing, then all outstanding Notes shall immediately and automatically become due and payable together with all other amounts payable under the Loan Documents without presentment, demand, protest or notice of any kind which are hereby waived by the Borrower, the obligation of the Lenders to extend further credit pursuant to any of the terms hereof shall immediately and automatically terminate, the Commitments shall immediately and automatically terminate, and the Borrower shall immediately pay to the Administrative Agent the full amount then available for drawing under all outstanding Letters of Credit, the Borrower acknowledging and agreeing that the Lenders would not have an adequate remedy at law for failure by the Borrower to honor any such demand and that the Lenders, and the Administrative Agent on their behalf, shall have the right to require the Borrower to specifically perform such undertaking whether or not any draws or other demands for payment have been made under any of the Letters of Credit.

*Section 7.4 Collateral for Undrawn Letters of Credit.* (a) If the prepayment of the amount available for drawing under any or all outstanding Letters of Credit is required under Section 2.7(b) or under Section 7.2 or 7.3 above, the Borrower shall forthwith pay the amount required to be so prepaid, to be held by the Administrative Agent as provided in subsection (b) below.

(b) All amounts prepaid pursuant to subsection (a) above shall be held by the Administrative Agent in one or more separate collateral accounts (each such account, and the credit balances, properties, and any investments from time to time held therein, and any substitutions for such account, any certificate of deposit or other instrument evidencing any of the foregoing and all proceeds of and earnings on any of the foregoing being collectively called the “*Collateral Account*”) as security for, and for application by the Administrative Agent (to the extent available) to, the reimbursement of any payment under any Letter of Credit then or thereafter made by the L/C Issuer, and to the payment of the unpaid balance of any other Obligations. The Collateral Account shall be held in the name of and subject to the exclusive dominion and control of the Administrative Agent for the benefit of the Administrative Agent, the Lenders, and the L/C Issuer. If and when requested by the Borrower, the Administrative Agent shall invest funds held in the Collateral Account from time to time in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America with a remaining maturity of one year or less, *provided* that the Administrative Agent is irrevocably authorized to sell investments held in the Collateral Account when and as required to make payments out of the Collateral Account for application to amounts due and owing from the Borrower to the L/C Issuer, the Administrative Agent or the Lenders;

*provided, however*; that if (i) the Borrower shall have made payment of all such obligations referred to in subsection (a) above, (ii) all relevant preference or other disgorgement periods relating to the receipt of such payments have passed, and (iii) no Letters of Credit, Commitments, Loans or other Obligations remain outstanding hereunder, then the Administrative Agent shall release to the Borrower any remaining amounts held in the Collateral Account.

*Section 7.5 Notice of Default.* The Administrative Agent shall give notice to the Borrower under Section 7.1(c) hereof promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

*Section 7.6 Expenses.* The Borrower agrees to pay to the Administrative Agent and each Lender, and any other holder of any Note outstanding hereunder, all costs and expenses reasonably incurred or paid by the Administrative Agent and such Lender or any such holder, including reasonable attorneys' fees and court costs, in connection with any Default or Event of Default by the Borrower hereunder or in connection with the enforcement of any of the Loan Documents (including all such costs and expenses incurred in connection with any proceeding under the United States Bankruptcy Code involving the Borrower or any of its Subsidiaries as a debtor thereunder).

## SECTION 8. CHANGE IN CIRCUMSTANCES AND CONTINGENCIES.

*Section 8.1 Funding Indemnity.* If any Lender shall incur any loss, cost or expense (including, without limitation, any loss of profit, and any loss, cost or expense incurred by reason of the liquidation or re-employment of deposits or other funds acquired by such Lender to fund or maintain any Eurocurrency Loan or Swing Loan or the relending or reinvesting of such deposits or amounts paid or prepaid to such Lender or by reason of breakage of interest rate swap agreements or the liquidation of other hedging contracts or agreements) as a result of:

(a) any payment, prepayment or conversion of a Eurocurrency Loan or Swing Loan on a date other than the last day of its Interest Period,

(b) any failure (because of a failure to meet the conditions of Section 3 or otherwise) by the Borrower to borrow or continue a Eurocurrency Loan or Swing Loan, or to convert a Base Rate Loan into a Eurocurrency Loan or Swing Loan, on the date specified in a notice given pursuant to Section 2.4(a) hereof,

(c) any failure by the Borrower to make any payment of principal on any Eurocurrency Loan or Swing Loan when due (whether by acceleration or otherwise), or

(d) any acceleration of the maturity of a Eurocurrency Loan or Swing Loan as a result of the occurrence of any Event of Default hereunder,

then, upon the demand of such Lender, the Borrower shall pay to such Lender such amount as will reimburse such Lender for such loss, cost or expense. If any Lender makes such a claim for compensation, it shall provide to the Borrower, with a copy to the Administrative Agent, a certificate setting forth the amount of such loss, cost or expense in reasonable detail (including