

MASTER GUARANTEE AGREEMENT
(Agency – Long Term Credits)

dated as of _____, 20__

between

[AGENT],
in its capacity as Agent on behalf of
the Lenders

and

EXPORT-IMPORT BANK OF THE UNITED STATES

MGA No. ____ - AL

AGENT INFORMATION

(MGA No. ____ - AL)

(1) Full Name of Agent:

(2) Type of Entity (e.g., national association, corporation, partnership, etc.):

(3) Jurisdiction of Organization of Agent and, if different, its ultimate parent company (i.e., where incorporated or equivalent):

Agent: _____

[Ultimate parent company:] _____

(4) Notice Information (Unless otherwise specified in a notice delivered in accordance with Section 10.02 of this Agreement, all notices to the Agent shall be delivered to the following address):

Address: _____

Attention: _____

Fax: _____

Telephone: _____

E-mail: _____

[With a copy to:

Address: _____

Attention: _____

Fax: _____

Telephone: _____

E-mail: _____]

The parties set forth below have caused the Master Guarantee Agreement (Agency – Long Term Credits) to be duly executed and delivered as of the date set forth on the cover page hereto.

EXPORT-IMPORT BANK OF THE UNITED STATES

By: _____
(Signature)

Name: _____
(Print)

Title: _____
(Print)

[AGENT],
in its capacity as Agent on behalf of the Lenders

By: _____
(Signature)

Name: _____
(Print)

Title: _____
(Print)

MGA No. ____ – AL

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THIS MASTER GUARANTEE AGREEMENT (AGENCY-LONG TERM CREDITS), dated as of the date set forth on the cover page hereto (as amended from time to time, this “Agreement”), is made by and between in its capacity as agent (the “Agent”) on behalf of the Lenders (hereinafter defined) and the Export-Import Bank of the United States, an agency of the United States of America (“Ex-Im Bank”). Capitalized terms used herein shall be defined as provided in Section 1.

BACKGROUND RECITALS

WHEREAS:

(A) the Lenders intend to establish export financing Credits, pursuant to which the Lenders shall extend financing guaranteed by Ex-Im Bank for the benefit of Borrowers approved by Ex-Im Bank under transactions, each of which: (i) shall provide for the purchase of Goods and/or Services in the United States for export to the Purchaser’s Country; (ii) may provide for the purchase of Local Cost Goods and Services in the Purchaser’s Country; (iii) may provide for the payment of the related Exposure Fees and (iv) may provide for the payment of IDC;

(B) the establishment of the Credits will facilitate exports from the United States to the Purchaser’s Country;

(C) a condition to the Lenders’ extension of each Credit is the availability of the Guarantee to the Agent, acting on behalf of the Lenders; and

(D) a condition to the issuance of the Guarantee with respect to each Credit is the satisfaction of the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1 DEFINITIONS AND PRINCIPLES OF CONSTRUCTION

1.01 Defined Terms. For the purposes of this Agreement, the following terms shall have the meanings specified below.

“Accelerated Payment” shall have the meaning set forth in Section 8.05(c).

“Accelerated Payment Method” shall have the meaning set forth in Section 8.05(c).

“Acquisition List” shall have the meaning set forth in the relevant Credit Agreement for each Credit.

“Agent” shall have the meaning set forth in the preamble to this Agreement.

“Agreement” shall mean this Master Guarantee Agreement (Agency-Long Term Credits), including any Annex, Exhibit or other attachment hereto, as amended or otherwise modified from time to time.

“Amended Exporter’s Certificate” shall mean any Exporter’s Certificate amending any previously delivered Exporter’s Certificate.

“Ancillary Services” shall have the meaning set forth in Section 3.04(a).

“Ancillary Services Provider” shall mean the Person who provides Ancillary Services.

“Banking Services” shall mean, with respect to each Transaction, (a) the services the Agent provides in its capacity as an Agent and (b) the services any Lender provides, in its capacity as a lender, in each case in connection with the relevant Credit.

“Borrower” shall mean the Person specified as such in an Ex-Im Bank Approval.

“Borrower’s Country” shall mean the country specified as such in an Ex-Im Bank Approval.

“Business Day” shall mean any day on which dealings in U.S. Dollar deposits are carried on in the London interbank market and on which the Federal Reserve Bank of New York and commercial banks in London and New York City are open for domestic and foreign exchange business.¹

“Buyer Credit” shall mean a Credit established by means of a loan extended by any Lender directly to a Borrower and evidenced by a Credit Agreement and a Note, which names the Agent for the benefit of the Lenders as sole payee.

“Cash Payment” shall mean the payment that a Borrower is required to make pursuant to Section 3.01.

“Certificate Holder” shall mean the Person listed as the holder of a Payment Certificate on the registry books maintained by Ex-Im Bank.

“Commitment Fee” shall have the meaning set forth in Section 7.01.

“Comprehensive Guarantee” shall mean a Guarantee providing for compensation by Ex-Im Bank under such Guarantee for failures in payment of the relevant Guaranteed Amount, regardless of the cause of the default.

“Credit” shall mean an export financing credit established by a Lender or Lenders for which Ex-Im Bank has issued an Ex-Im Bank Approval.

“Credit Agreement” shall mean, with respect to a Transaction, a credit agreement among the Borrower, any Guarantor, the relevant Lenders, the Agent and Ex-Im Bank, in form and substance satisfactory to Ex-Im Bank, setting forth the terms and conditions of the Credit.

“Demand Date” shall have the meaning set forth in Section 8.05(a).

¹The Agent is permitted to use an alternative definition of Business Day if Ex-Im Bank agrees.

“Disbursement” shall mean a Reimbursement or an L/C Payment or an IDC Disbursement, together with, if the Exposure Fee is financed under the Credit, any Exposure Fee payment made in connection therewith.

“Disbursement Date” shall mean, in relation to any Disbursement, the Business Day on which the applicable Lenders shall make such Disbursement.

“Disbursement Payment Method” shall have the meaning set forth in the MGA Political Risk Supplement (if any).

“Disbursement Percentage” shall mean, with respect to any Supply Contract, the percentage, if any, specified in Part A of the relevant Exporter’s Certificate.

“Event of Default” shall mean an Event of Default as such term is defined in the relevant Credit Agreement.

“Ex-Im Bank Application” shall have the meaning set forth in Section 2.01(a)(i).

“Ex-Im Bank Approval” shall have the meaning set forth in Section 2.01(b).

“Ex-Im Bank Transaction Number” shall mean the number specified as such in the relevant Ex-Im Bank Approval.

“Exporter” shall mean any Person specified as such in an Ex-Im Bank Approval or otherwise approved by Ex-Im Bank.

“Exporter’s Certificate” shall mean the exporter’s certificate in the form set forth in Annex B to the Credit Agreement, or in such other form as Ex-Im Bank shall require from time to time.

“Exposure Fee” shall mean, in connection with each Transaction, a risk premium in the amount specified as such in the relevant Ex-Im Bank Approval. In the event of any refund of any portion of an Exposure Fee in accordance with the terms and conditions of a Credit Agreement, the Exposure Fee shall mean the original Exposure Fee less the amount of any such refund.

“External Indebtedness” shall mean, with respect to any Borrower, any obligation (whether present or future, actual or contingent, secured or unsecured, as principal, surety or otherwise) for the payment or repayment of money, which obligation is denominated (or is payable at the option of the payee) in a currency other than that of the Borrower’s Country.

“Federal Funds Rate” shall mean, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day (or, if such a day is not a Business Day, for the next preceding Business Day) by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (519) or any successor publication thereto, or, if such rate is not published for any day

which is a Business Day, the rate specified as the “offered” Federal funds rate on such day in The Wall Street Journal (Eastern Edition, U.S.) under the table entitled “Money Rates”.

“Fee Letter” shall have the meaning set forth in Section 7.01(a)(ii).

“Final Disbursement Date” shall mean the date specified as such in an Ex-Im Bank Approval; or, if earlier, the date on which the full remaining balance of the Credit is cancelled pursuant to the Credit Agreement for a Transaction.

“Financed Portion” shall mean the portion of the Net Contract Price of the Goods and Services that may be covered under the Guarantee in accordance with Section 3.05(a).

“Financial Advisor Services” shall mean, with respect to each Transaction, services of a financial intermediary or advisor, *provided* that such Person has been retained by the Borrower, the Agent, any Lender, any Guarantor or Ex-Im Bank and such services relate to assisting the Borrower or any Guarantor in obtaining, structuring and/or meeting the financial requirements of the relevant Credit or assisting Ex-Im Bank or the Agent in its analysis of the relevant Credit, any underlying project and/or the business of the Borrower or any Guarantor.

“Fixed Rate Note” shall mean a Note bearing interest at a fixed rate.

“Floating Rate Note” shall mean a Note bearing interest at a floating rate.

“Foreign Content” shall mean, with respect to any Supply Contract, the amount representing the foreign content in such contract as specified in Section 2 of the relevant Ex-Im Bank Approval. Ex-Im Bank shall determine what does and does not constitute Foreign Content, and such determination, in the absence of manifest error, shall be conclusive and binding for all purposes.

“Foreign Currency Guarantee” shall mean a Guarantee issued pursuant to an MGA Foreign Currency Supplement.

“Fractional Amount” shall mean the amount calculated by dividing (a) the amount of a Disbursement with respect to a Credit by (b) the number of principal installments specified in the relevant Ex-Im Bank Approval.

“Global Note” shall mean an installment promissory note in favor of the Agent for the benefit of the Lenders evidencing in the aggregate all Disbursements under a Credit.

“Goods” shall mean goods specified in the relevant Ex-Im Bank Approval, as described in greater detail in the relevant Acquisition List, that are purchased in the United States under a Supply Contract and exported from the United States to the Purchaser’s Country; *provided*, that Ex-Im Bank shall determine what does and does not constitute Goods, and such determination, in the absence of manifest error, shall be conclusive and binding for all purposes.

“Governmental Authority” shall mean the government of any country; any agency, department or any other administrative authority or instrumentality thereof; and any local or other governmental authority within such country.

“Guarantee” shall have the meaning set forth in Section 4.01.

“Guarantee Availability Date” shall mean the date specified as such in an Ex-Im Bank Approval.

“Guarantee Certificate” shall mean a certificate issued by Ex-Im Bank in one of the following forms, as appropriate, defined in the Credit Agreement for a Transaction: (i) a Certificate Approving Letter of Credit; (ii) a Certificate Approving Amended Letter of Credit; (iii) a Certificate Authorizing Reimbursement; or (iv) a Certificate Authorizing Local Cost Reimbursement.

“Guarantee Legend” shall mean Ex-Im Bank’s guarantee legend on the Note or on each Serial Note of a Note Series in the form of Annex C-1 to this Agreement.

“Guaranteed Amount” shall have the meaning set forth in Section 4.02.

“Guaranteed Interest Rate” shall mean, with respect to each Credit, the rate of interest specified in the relevant Ex-Im Bank Approval; *provided*, that if an alternative interest rate becomes applicable (a) in connection with an exercise of an Interest Rate Switch, or (b) as authorized by Ex-Im Bank in the relevant Ex-Im Bank Approval (or an amendment thereto); then in each such case the Guaranteed Interest Rate shall mean such alternative rate.²

“Guaranteed Note Certificate” shall mean a certificate in the form of Annex C-2 to this Agreement evidencing the Guarantee with respect to such Note (other than any Serial Note) or Note Series.

“Guarantor” means any Person specified as such in an Ex-Im Bank Approval.

“IDC” shall mean, with respect to any Credit, capitalized interest accruing from the Initial Disbursement Date to the last Interest Payment Date on or before the Final Disbursement Date, unless otherwise set forth in the relevant Credit Agreement.

“IDC Amount” shall mean the amount of IDC due and payable by the Borrower on the last day of the relevant Interest Period.

“IDC Disbursement” shall mean an advance, in accordance with the Utilization procedures set forth in an Annex to the relevant Credit Agreement, of (i) the relevant IDC Amount and (ii) the Exposure Fee due and payable to Ex-Im Bank thereon (if financed).

“IDC Financed Portion” shall mean the sum of all IDC Amounts eligible for a Guarantee and as specified in the relevant Ex-Im Bank Approval.

²The proviso to this definition clarifies that Ex-Im Bank’s guarantee covers the originally agreed upon interest rate and any alternative rate that becomes applicable during the course of the transaction (including, in the case of securitized transactions, the liquidity facility interest rate), but in no event a default or penalty interest rate.

“Indemnity Agreement” shall mean, with respect to a Transaction, an indemnity agreement among the relevant Borrower and Guarantors (if any), certain of the lenders party to such Transaction and the Agent.³

“Initial Disbursement Date” shall mean the date on which the initial Disbursement of the Credit is effected pursuant to the Credit Agreement for a Transaction.

“Initial Eligibility Date” shall mean, with respect to each Transaction, the date specified as such in the relevant Ex-Im Bank Approval. Ex-Im Bank shall make all determinations of the Initial Eligibility Date for each Transaction, and such determinations shall be conclusive and binding for all purposes.

“Initial Exporter’s Certificate” shall mean the initial Exporter’s Certificate delivered to the Agent prior to the first Disbursement with respect to the relevant Supply Contract.

“Installment Payment Method” shall have the meaning set forth in Section 8.05(d).

“Interest Payment Date” shall mean each date on which interest is due, as specified in an Ex-Im Bank Approval.

“Interest Period” shall mean, with respect to each Disbursement, (a) the period commencing on the applicable Disbursement Date and extending up to, but not including, the next Interest Payment Date; provided, however, that if such Disbursement Date is within sixty (60) days of such Interest Payment Date (or within any other time period agreed to in writing by Ex-Im Bank and specified in the relevant Ex-Im Bank Approval)⁴, the Interest Period shall extend up to, but not include, the next succeeding Interest Payment Date; and (b) thereafter, the period commencing on each Interest Payment Date and extending up to, but not including, the next Interest Payment Date.

“Interest Rate Switch” shall have the meaning as set forth in Section 2.05.

“L/C Payment” shall have the meaning set forth in Section 2.06.

“Legal Services” shall mean, with respect to each Transaction, the services of attorneys engaged by the Borrower, any Guarantor, the Agent, the Lenders or Ex-Im Bank and provided in connection with the relevant Credit.

“Legend Certification Date” shall mean the date requested for the endorsement of a Guarantee Legend or the issuance of a Guaranteed Note Certificate.

³ The Indemnity Agreement will generally contain any obligations of the debtors that are not guaranteed by Ex-Im Bank (e.g., Lender/Agent fees, make-whole amounts, default interest, etc.) To the extent these amounts are NOT included in the Credit Agreement, the Agent and Lenders are not required to assign their rights thereto as a condition to claim payment.

⁴The Agent, Ex-Im Bank, and a Borrower may agree on a slightly longer or shorter billing cycle so long as it is still a reasonable period.

“Lender” shall mean any financial institution or Person from time to time party to a Credit Agreement as a “Lender” thereunder (including any successor financial institution or any transferee or assignee of such institutions permitted under such Credit Agreement (excluding Ex-Im Bank)).

“Letter of Credit” shall mean any irrevocable documentary sight letter of credit governed by and in compliance with the requirements of the Uniform Customs and Practices for Documentary Credits (International Chamber of Commerce Publication 500), as the same may be amended from time to time, and for which Ex-Im Bank has issued a Certificate Approving Letter of Credit.

“LIBOR” shall mean, in relation to any Interest Period, the rate of interest per annum (rounded upward, if necessary, to the nearest 1/16 of 1%) quoted by the principal London office of the [Agent/Reference Bank(s)] or an affiliate of the [Agent/Reference Bank(s)] designated by the Agent at approximately 11:00 a.m. (London time) on the Quotation Date.⁵

“Local Cost Financed Portion” shall mean the U.S. Dollar value of Local Cost Goods and Services eligible for a Guarantee and in an amount specified in the relevant Ex-Im Bank Approval.

“Local Cost Goods and Services” shall mean, with respect to any Transaction, any goods and/or services specified as such in the relevant Ex-Im Bank Approval, as described in greater detail in the relevant Acquisition List. Ex-Im Bank shall determine what does and does not constitute Local Cost Goods and Services, and such determination shall be conclusive and binding for all purposes.

“Local Cost Provider” shall mean either the Exporter or any Person located in the Purchaser’s Country who provides Local Cost Goods and Services, as specified in the relevant Ex-Im Bank Approval.

“Margin” shall mean, with respect to each Floating Rate Note, the positive or negative percentage rate added to the Reference Rate.

“MGA Foreign Currency Supplement” shall mean any Long Term MGA Supplement (Foreign Currency Guarantee) entered into between the Agent and Ex-Im Bank on or after the date hereof, including any Annex or other attachment thereto, as amended or otherwise modified from time to time.

“MGA No.” shall mean the identification number Ex-Im Bank assigns to this Agreement.

“MGA Political Risk Supplement” shall mean any Long Term MGA Supplement (Political Risk Guarantees), entered into between the Agent and Ex-Im Bank on or after the date

⁵If a particular Agent needs to use a different LIBOR definition and Ex-Im Bank and the relevant Borrower agree, then such Agent may use this different definition, and the Agent’s Request for Ex-Im Bank Approval should note that an alternative reference rate is requested. Ex-Im Bank’s agreement to use an alternative reference rate must be reflected in the relevant Ex-Im Bank Approval.

hereof, including any Annex or other attachment thereto, as amended or otherwise modified from time to time.

“Net Contract Price” shall mean, with respect to a Supply Contract, the U.S. Content plus the Foreign Content.

“Non-Ex-Im Bank Payment” shall have the meaning set forth in Section 9.05.

“Note” shall mean a Single Disbursement Note, a Serial Note, or a Global Note.

“Note Series” shall mean a series of promissory notes in the aggregate evidencing a single Disbursement under a Credit.

“Notice of IDC Disbursement” shall mean a notice in the form of the Exhibit to the Annex under the relevant Credit Agreement that sets forth the Utilization procedures for IDC Disbursements.

“OECD Arrangement” shall mean the OECD Arrangement on Guidelines for Officially Supported Export Credits adopted in 1998 by members of the Organization for Economic Cooperation and Development, as amended from time to time.

“Payment Certificate” shall have the meaning set forth in Section 8.05(d)(ii).

“Payment Date” shall mean an Interest Payment Date or Repayment Date, as the case may be.

“Payment Method” shall mean the Accelerated Payment Method, the Installment Payment Method, or the Disbursement Payment Method.

“Person” shall mean an individual, corporation, partnership, trust, unincorporated organization or any other enterprise, or a Governmental Authority.

“Political Risk Guarantee” shall mean a Guarantee issued pursuant to an MGA Political Risk Supplement entered into between the Agent and Ex-Im Bank providing for compensation by Ex-Im Bank for failures in payment of the relevant Guaranteed Amount caused by Political Risk (as defined in such supplement).

“Purchaser” shall mean the Person specified as such in each Ex-Im Bank Approval, which Person is the foreign purchaser of the Goods, Services, and any Local Cost Goods and Services sold by Exporter(s) and/or Local Cost Provider(s), as the case may be, specified in such Ex-Im Bank Approval.

“Purchaser’s Country” shall mean the country specified as such in an Ex-Im Bank Approval.

“Quotation Date” shall mean, in relation to any Interest Period for which an interest rate is to be determined hereunder, the day on which quotations would ordinarily be given by prime banks in the London interbank market for U.S. Dollar deposits for delivery on the first day of

that Interest Period, provided that if, for any such period, quotations would ordinarily be given on more than one date, the Quotation Date for that period shall be the last of those dates.

[“Reference Bank” shall have the meaning assigned to such term in a Credit Agreement, or if not specified therein, _____.]⁶

“Reference Rate” shall mean LIBOR or any alternative rate of interest specified in an Ex-Im Bank Approval.

“Reimbursement” shall have the meaning set forth in Section 2.06(b).

“Repayment Date” shall mean each date on which an installment of principal is due, as specified in an Ex-Im Bank Approval.

“Request for Ex-Im Bank Approval” shall have the meaning set forth in Section 2.01(a)(i).

“Request for Guarantee” shall mean a request by the Agent to Ex-Im Bank in the form of Annex D to this Agreement.

“Responsible Division” shall mean the Ex-Im Bank division identified as the “Responsible Division” in the relevant Ex-Im Bank Approval for a Transaction or in any notice delivered by Ex-Im Bank to the Agent.

“Restricted Legend Jurisdiction” shall mean a jurisdiction where Ex-Im Bank requires the use of a Guaranteed Note Certificate, as indicated on the Ex-Im Bank Approval for a Transaction.

“Security” shall have the meaning set forth in Section 8.03(b).

“Serial Note” shall mean each promissory note of a Note Series evidencing the obligation to pay a single installment of principal due with respect to a single Disbursement under the Credit.

“Services” shall mean services (including Ancillary Services) specified in the relevant Ex-Im Bank Approval, as described in greater detail in the relevant Acquisition List, that are performed under a Supply Contract (excluding any services that qualify as Local Cost Goods and Services); *provided*, that Ex-Im Bank shall determine what does and does not constitute Services, and such determination, in the absence of manifest error, shall be conclusive and binding for all purposes.

“Single Disbursement Note” shall mean an installment promissory note evidencing a single Disbursement.

⁶ Inclusion of this term is at the discretion of the Agent and relates to the method by which a reference rate (usually LIBOR) is quoted.

“Special Ancillary Services” shall mean Ancillary Services: (i) for which Ex-Im Bank has selected the Ancillary Services Provider and required a Borrower or another Person to pay for such services; (ii) that Ex-Im Bank has determined, in its sole discretion, are necessary in order for the underlying Transaction to go forward and cannot be reasonably obtained in the United States; or (iii) that the Agent or the relevant Lenders provide in connection with financing the Credit and for which the Agent or the relevant Lenders charge a one-time fee.

“Special LIBOR” shall mean, with respect to any Interest Period, the rate of interest per annum specified as the Dollar LIBOR Interbank fixing rate in the Financial Times under the table entitled “Money Rates” in effect on the day two Business Days prior to the first day of the relevant Interest Period for a term similar to the term of such Interest Period. If no rate is specified for such day, the applicable rate shall be the rate specified for the immediately preceding day for which a rate is specified, and if more than one rate is specified, the applicable rate shall be the highest of all such rates. In the event the Financial Times either completely ceases publication or discontinues publication of the Dollar LIBOR Interbank fixing rate, then Ex-Im Bank shall determine Special LIBOR by reference to a financial publication with a similar international or U.S. circulation, which publication shall be selected by Ex-Im Bank in its sole discretion.

“Supply Contract” shall mean the contract(s) (or, if no contract is executed, any other document(s) satisfactory to Ex-Im Bank) for the purchase of Goods and/or Services and Local Cost Goods and Services, entered into between a Purchaser and an Exporter, Ancillary Services Provider, or Local Cost Provider, as the case may be; *provided*, in each case, that multiple contracts (or other documents) among the same parties with respect to a Transaction will be considered a single “Supply Contract” for all purposes under this Agreement.

“Switch Option” shall have the meaning set forth in Section 2.05(a).

“Technical Consultant Services” shall mean, with respect to each Transaction, services of an advisor or consultant with respect to technical matters (including engineering consultants, yield consultants, and insurance advisors) where: (a) Ex-Im Bank has required the retention of such a consultant in order to assist Ex-Im Bank in its analysis of the relevant Credit and/or the business operations of the Borrower or any Guarantor; (b) the services of such consultant relate to the relevant Credit; and (c) the experience, expertise, and overall competence of such consultant is satisfactory to Ex-Im Bank (in its sole and absolute discretion).

“Total Financed Amount” shall mean the amount specified as such in the relevant Ex-Im Bank Approval for each Transaction.

“Transaction” shall have the meaning set forth in Section 2.01(b)(i).

“U.S.” or “United States” shall mean the United States of America.

“U.S. Content” shall mean, with respect to any Supply Contract, the amount representing the U.S. content in such contract, as specified in Section 2 of the relevant Ex-Im Bank Approval. Ex-Im Bank shall determine what does and does not constitute U.S. Content, and such determination, in the absence of manifest error, shall be conclusive and binding for all purposes.

“U.S. Content Percentage” shall mean, with respect to any Supply Contract, the percentage specified as such in Part A of the relevant Exporter’s Certificate.

“U.S. Dollar” or “US\$” shall mean the lawful currency of the United States of America.

“Utilization” shall mean (i) the making of a Reimbursement, (ii) the issuance of a Letter of Credit, or (iii) the making of an IDC Disbursement, as such terms are defined in a Credit Agreement for a Transaction.

1.02 Principles of Construction. The following principles of construction shall apply to this Agreement:

(a) The meanings set forth for defined terms in Section 1.01 or elsewhere in this Agreement shall be equally applicable to both the singular and plural forms of the terms defined.

(b) Unless otherwise specified, all references in this Agreement to Sections, Schedules, Annexes and Exhibits are to Sections, Schedules, Annexes and Exhibits in or to this Agreement.

(c) The headings of the Sections in this Agreement are included for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement. Any footnotes in this Agreement are for informational purposes only and shall not in any way affect the meaning or construction of any provision of this Agreement.

(d) Any provision of this Agreement that obligates the Agent or any Lender to “require” a Borrower to do a specified act shall mean that the Agent or such Lender is obligated to cause a duly authorized officer of the relevant Borrower to agree in writing that the Borrower will do such specified act.

(e) In the event of any inconsistency between the terms of the Ex-Im Bank Approval with respect to a Transaction and the terms of this Agreement or of any other agreement or instrument relating to the Transaction, as between the Agent (and the relevant Lenders on whose behalf it is acting) and Ex-Im Bank the terms of such Ex-Im Bank Approval shall govern and shall supersede the terms hereof or thereof to the extent of such difference. In the event of any inconsistency between the terms of this Agreement and any other agreement or instrument relating to a Transaction (other than the terms of the relevant Ex-Im Bank Approval), as between the Agent (and the relevant Lenders on whose behalf it is acting) and Ex-Im Bank the terms of this Agreement shall govern. Notwithstanding the foregoing, nothing contained herein shall be deemed in any way to limit the rights of the Agent against one or more of the relevant Lenders to the extent so provided in the relevant Credit Agreement or any other agreement or instrument relating to a Transaction.

SECTION 2 APPROVAL OF TRANSACTIONS; CREDIT AND DISBURSEMENT REQUIREMENTS

2.01 Applications and Approvals.

(a) Request for Ex-Im Bank Approval. Ex-Im Bank will consider approval of a Guarantee with respect to each proposed financing transaction for which the Agent has submitted (i) a fully completed application in the form of Annex A hereto (a “Request for Ex-Im Bank Approval”); and (ii) a fully completed Ex-Im Bank “Preliminary Commitment and Final Commitment Application Form” (an “Ex-Im Bank Application”); provided that such proposed financing transaction satisfies the terms and conditions provided herein, including, without limitation, the Guarantee eligibility requirements set forth in Section 3. The Agent may only request a Comprehensive Guarantee with respect to a proposed financing of a foreign currency Buyer Credit if the Agent and Ex-Im Bank have entered into an MGA Foreign Currency Supplement and all conditions to the effectiveness of this Agreement and such supplement have been satisfied. The Agent may only request approval of a Political Risk Guarantee with respect to a proposed financing of a Buyer Credit if the Agent and Ex-Im Bank have entered into an MGA Political Risk Supplement and all conditions to the effectiveness of this Agreement and such supplement have been satisfied.

(b) Ex-Im Bank Approval and Political Risk Transactions.

(i) A Guarantee of the relevant Credit with respect to each transaction approved by Ex-Im Bank (each, a “Transaction”) consisting of the sale of Goods and Services to be exported from the United States to a Purchaser by an Exporter (or Exporters) and/or Ancillary Services Provider (or Ancillary Services Providers) in one or more shipments (and of any related sale of Special Ancillary Services or Local Cost Goods and Services) to be financed under such Credit, shall be evidenced by Ex-Im Bank’s issuance of a letter of approval in the form of Annex B hereto (as amended from time to time, an “Ex-Im Bank Approval”). Ex-Im Bank shall have the unconditional right to approve, deny or modify any Request for Ex-Im Bank Approval. Any modifications Ex-Im Bank requires with respect to any Transaction shall be set forth in the Ex-Im Bank Approval with respect to such Transaction.

(ii) If Section 3 (Types of Guarantee Risk Coverage and Credit) of the Ex-Im Bank Approval with respect to a particular Transaction states that: (A) the Guarantee of the relevant Credit is a Political Risk Guarantee, then for all purposes of such Transaction, the terms of this Agreement shall be deemed to be modified as provided in the MGA Political Risk Supplement; or (B) the Guarantee of the relevant Credit is a Foreign Currency Guarantee, then for all purposes of such Transaction, the terms of this Agreement shall be deemed to be modified as provided in the MGA Foreign Currency Guarantee Supplement.

2.02 Amount and Use of Credits.

(a) The Agent and the relevant Lenders shall establish each Credit pursuant to the terms and conditions set forth in this Agreement, the relevant Credit Agreement, the relevant Note(s) and the relevant Ex-Im Bank Approval, in favor of the Borrower and in the amount specified in such Ex-Im Bank Approval.

(b) Each Credit shall be used to enable the relevant Borrower to finance:

- (i) the Financed Portion of the Net Contract Price incurred on and after the Initial Eligibility Date by a Purchaser for the purchase of Goods and Services;
- (ii) if provided in the Ex-Im Bank Approval, the Local Cost Financed Portion of the costs a Purchaser incurs on or after the Initial Eligibility Date for the purchase in the Purchaser's Country of Local Cost Goods and Services, if any;
- (iii) if provided in the Ex-Im Bank Approval, the Exposure Fee payable on such Financed Portion, Local Cost Financed Portion and IDC Financed Portion; and
- (iv) if provided in the Ex-Im Bank Approval, the IDC Financed Portion.

For purposes of this Section 2.02(b), costs with respect to services shall be deemed to have been incurred on the date the services were performed, as evidenced by the invoice of the provider of such services, and costs with respect to goods shall be deemed to have been incurred on the date the goods were shipped, as evidenced by the date of the relevant bill of lading.

2.03 Principal Repayments In each Transaction, the Agent, for the account of the Lenders, shall require that the Borrower shall repay all amounts disbursed under the Credit: (a) in the number of successive semi-annual installments indicated on the relevant Ex-Im Bank Approval; (b) in approximately equal amounts unless otherwise provided in the relevant Ex-Im Bank Approval, *provided* that on the last Payment Date, the Agent shall require that the Borrower repay in full the principal amount of the Credit then outstanding; and (c) with each such repayment payable on a Repayment Date.

2.04 Interest Payments.

(a) Payments to the Agent. In each Transaction, the Agent, for the account of the Lenders, shall require that, on each Interest Payment Date, the Borrower shall pay interest on all amounts disbursed and outstanding from time to time under the Credit, calculated at an interest rate per annum equal to the relevant Guaranteed Interest Rate.

(b) Payments to Ex-Im Bank.

(i) Notwithstanding Section 2.04(a), the Agent shall require that, if Ex-Im Bank shall have made a claim payment to the Agent with respect to any Floating Rate Note, then beginning on the date of such claim payment, Special LIBOR shall apply to each such Floating Rate Note (in place of the Reference Rate contained in each such Floating Rate Note) for all purposes and each such Floating Rate Note shall bear interest at a rate equal to the greater of (A) Special LIBOR and (B) Special LIBOR plus the Margin.

(ii) Notwithstanding any provision of any Credit Agreement or any provision of a Note, which in either case provides for the payment of additional or penalty interest on any amounts of principal, accrued interest, fees or other amounts owing to the Agent or the Lenders that are unpaid and overdue, the Agent shall require in each Transaction that, if Ex-Im Bank shall have made a claim payment to the Agent with respect to any Note subject to either the Accelerated Payment Method or the Installment Payment

Method, then beginning on the date of such claim payment, if any amount of principal of or accrued interest on any Note then owing to Ex-Im Bank is not paid in full when due, whether at stated maturity, by acceleration or otherwise, the Borrower shall pay to Ex-Im Bank on demand interest on such unpaid amount (to the extent permitted by applicable law) for the period from the date such amount was due to Ex-Im Bank until such amount shall have been paid in full at an interest rate per annum equal to one percent (1%) per annum above the interest rate then applicable under Section 2.04(a) (as modified, if required, by 2.04(b)(i)).

2.05 Interest Rate Switches and the Switch Option. The Agent may permit a Borrower under any Credit to switch the Guaranteed Interest Rate applicable to such Credit (or any part thereof) one or more times (each such option, an “Interest Rate Switch”) in accordance with the terms and conditions set forth in the relevant Credit Agreement; *provided* (i) if the Interest Rate Switch is to a floating rate, Ex-Im Bank shall have approved such floating rate in the relevant Ex-Im Bank Approval; (ii) the Agent has notified Ex-Im Bank’s Asset Management Division of the new rate in writing no more than ten (10) Business Days following the exercise of such Interest Rate Switch; and (iii) such Interest Rate Switch may be exercised only as long as no Event of Default has occurred under such Credit. Unless Ex-Im Bank otherwise agrees, the following shall apply:

(a) Ex-Im Bank shall only endorse a Guarantee Legend or issue a Guaranteed Note Certificate once with respect to any replacement Note or Note Series issued in connection with a single exercise of an Interest Rate Switch. This one-time only right of the Agent to request that Ex-Im Bank so endorse its Guarantee Legend or issue a Guaranteed Note Certificate pursuant to the preceding sentence shall be referred to as the “Switch Option”.

(b) If, under an Interest Rate Switch, the Borrower issues a replacement Note or Note Series, as the case may be, whether or not on a Payment Date, such replacement Note or Note Series must be dated the date of issuance by the Borrower, all previously accrued interest on the relevant Credit must be paid in full on the date of issuance of the replacement Note or Note Series, and such Note or Note Series must begin accruing interest at the new rate of interest on the date of issuance.

(c) Interest Rate Switches may only be applied to all Serial Notes of a particular Note Series, and not to any individual Serial Note of such Note Series.

2.06 Disbursement Requirements. Upon satisfaction of the conditions set forth in Section 6, Disbursements under the Credit, with respect to each Credit, may be made:

(a) except with respect to any IDC Disbursement, through drawings by an Exporter, Local Cost Provider, or Ancillary Services Provider under, and made in accordance with the terms of, a Letter of Credit (“L/C Payments”) for which Ex-Im Bank has issued a Guarantee Certificate under the relevant Credit Agreement. The parties hereto acknowledge and agree that to the extent a Lender, acting through the Agent, reimburses the L/C Bank for any L/C Payment or otherwise acquires a participation interest in such L/C Payment, such Lender shall, to such extent, be deemed to be a beneficiary of such Guarantee.

(b) except with respect to any IDC Disbursement, through advances from the relevant

Lenders, acting through the Agent, to the Borrower reimbursing the Borrower for the Financed Portion or Local Cost Financed Portion of payments to an Exporter, Local Cost Provider or Ancillary Services Provider and/or Ex-Im Bank (“Reimbursements”) for which Ex-Im Bank has issued a Guarantee Certificate under the relevant Credit Agreement.

(c) with respect to any IDC Disbursement, in accordance with the Annex to the relevant Credit Agreement which sets forth the Utilization procedures for IDC.

2.07 Evidence of Debt.

(a) Generally.

(i) The obligation of the relevant Borrower and any Guarantor to repay all amounts disbursed under the Credit extended to such Borrower, with interest accrued thereon, shall be evidenced, as specified in the relevant Ex-Im Bank Approval, by either (A) Single Disbursement Notes; (B) a Global Note; or (C) Serial Notes.⁷

(ii) Any notations by the Agent on any Note regarding payments made on account of the principal thereof, in absence of manifest error, shall be conclusive and binding.

(iii) If more than one Note is issued in connection with a Credit, the Agent shall have the duty to ensure that each Note is in the form required by the Credit Agreement; *provided* that the Agent and Ex-Im Bank each acknowledges and agrees that, pursuant to Section 9.07, the Agent shall indemnify Ex-Im Bank for all actual damages and costs Ex-Im Bank suffers as a result of any failure by the Agent to comply with its obligation under this Section 2.07(a)(iii); but any such failure shall in no way affect the binding nature of any Guarantee issued with respect to the relevant Credit.

(iv) Each Note or Note Series evidencing any Disbursement under a Credit shall be subject to the additional terms and conditions set forth in the relevant Credit Agreement.

(b) Single Disbursement Notes and Serial Notes.

(i) Each Serial Note evidencing an installment under a Credit shall: (A) be in a principal amount equal to the Fractional Amount; (B) be dated the same date as all other Serial Notes of the same Note Series, which date shall be no later than the Disbursement Date; and (C) be subject to the additional terms and conditions set forth in the relevant Credit Agreement.

(ii) Each Single Disbursement Note shall: (A) be in a principal amount equal to the amount of the relevant Disbursement; (B) be dated no later than the Disbursement Date; (C) be payable in the number of installments and on the dates in the relevant Ex-Im Bank Approval.

⁷Ex-Im Bank will only agree to use Series Notes or Single Disbursement Notes if required for an appropriately enforceable obligation under the laws of the Borrower’s Country.

(c) Global Notes. Each Global Note shall be valid and enforceable as to its principal amount at any time only to the extent of the aggregate amounts then disbursed and outstanding under the Credit in the case of a Global Note, and as to interest, only to the extent of the interest accrued thereon.

SECTION 3 GUARANTEE ELIGIBILITY REQUIREMENTS

3.01 Cash Payment. For each Credit, the Borrower shall have made or caused to be made a cash payment for the purchase of Goods and Services in an amount equal to not less than 15% of the Net Contract Price. The Lenders may finance any such Cash Payment, *provided* that the terms of any such financing may not be included in any Credit Agreement or evidenced by any Notes guaranteed by Ex-Im Bank under this Agreement.

3.02 Local Costs. For each Credit, Ex-Im Bank will provide a Guarantee with respect to the financing of Local Cost Goods and Services only if specifically indicated in the relevant Ex-Im Bank Approval. The Guarantee of each such Credit shall only cover the Local Cost Goods and Services as approved by Ex-Im Bank as eligible for financing hereunder, described in the Acquisition List, and in an amount not to exceed the Local Cost Financed Portion.

3.03 Progress Payments. In order to be eligible for a Guarantee, Ex-Im Bank must specifically authorize progress payments (payments made to an Exporter prior to completion and delivery of Goods) in the relevant Ex-Im Bank Approval. All such progress payments must be payable over the period of production of the Goods and pursuant to a Supply Contract, which in Ex-Im Bank's sole opinion, provides a schedule for payments at times and in amounts that will have a reasonable relationship to amounts the Exporter expends and that are reasonable and consistent with industry and financial standards.

3.04 Ancillary Services.

(a) Banking Services, Financial Advisor Services, Technical Consultant Services and Legal Services (collectively, "Ancillary Services") shall be treated in the same manner as any other Services (including, without limitation, the requirements set forth in this Agreement for Guarantee support with respect to the financing of such Services) and must be authorized by Ex-Im Bank in the relevant Ex-Im Bank Approval.⁸

3.05 Amount. Subject to the terms and conditions of this Agreement, the relevant Credit Agreement, and the relevant Ex-Im Bank Approval, the Guarantee shall cover each Disbursement up to the following maximum amount:

(a) an amount equal to the lesser of (i) eighty-five percent (85%), (ii) the U.S. Content Percentage, and (iii) the Disbursement Percentage (if any); in each case, of the U.S. Dollar invoice value of the Goods and Services to be financed by such Disbursement; plus

(b) the Local Cost Financed Portion of Local Cost Goods and Services to be financed by such Disbursement; plus

⁸Commitment fees, bank letter of credit fees, and other recurring bank fees are not financeable under the Credit.

- (b) to the extent being financed, the IDC Financed Portion; plus
- (c) to the extent being financed, an amount equal to one-hundred percent (100%) of the Exposure Fee on the amounts disbursed pursuant to (a), (b) and (c) above.

3.06 Exposure Fee. In order to be eligible for a Guarantee, each Borrower must pay or cause to be paid an Exposure Fee to Ex-Im Bank in accordance with the terms of the relevant Credit Agreement.

SECTION 4 THE GUARANTEES

4.01 The Guarantee. If the Ex-Im Bank Approval of a Credit indicates that Ex-Im Bank's Guarantee is a Comprehensive Guarantee, then subject to the terms and conditions set forth in this Agreement and such Ex-Im Bank Approval, Ex-Im Bank guarantees the payment of principal and interest in an amount up to and including the Guaranteed Amount for such Credit (the "Guarantee"). In no event shall the liability of Ex-Im Bank hereunder with respect to any Credit established for any Transaction exceed the Guaranteed Amount for such Credit.

4.02 Coverage of the Guarantee. The Guarantee for each Credit shall extend to the following amounts (collectively, the "Guaranteed Amount"):

(a) with respect to the full Credit, either (i) that portion of the disbursed and outstanding principal amount of each Note that evidences Disbursements with respect to which (A) Ex-Im Bank has issued one or more Guarantee Certificates or (B) in the case of IDC Disbursements, the Agent has delivered one or more Notices of IDC Disbursement to Ex-Im Bank; or (ii) the disbursed and outstanding principal amount of either (A) each Note which bears a Guarantee Legend or (B) each Note or Note Series with respect to which Ex-Im Bank has issued a Guaranteed Note Certificate; *provided* that in no event shall the liability of Ex-Im Bank under this Section 4.02(a) with respect to any Notes or Note Series pertaining to the Credit exceed the Total Financed Amount for such Credit;

(b) interest on the principal amounts described in Section 4.02(a) above, accrued at the Guaranteed Interest Rate to the scheduled payment dates thereof; and

(c) interest on any due and unpaid amounts described in Sections 4.02(a) and 4.02(b) above, accrued at the Guaranteed Interest Rate from the scheduled payment dates thereof to the date of Ex-Im Bank's payment thereof.

4.03 Binding Guarantees. After the issuance of a Guarantee Certificate with respect to a Disbursement or the delivery by the Agent of one or more Notices of IDC Disbursement to Ex-Im Bank or the endorsement of a Guarantee Legend on a Note or the issuance of a Guaranteed Note Certificate with respect to a Note or Note Series, the Guarantee with respect to such Disbursement or such Note or Note Series, as the case may be, shall be binding on Ex-Im Bank even though payment under such Note or any Serial Note of such Note Series is held to be unenforceable, except to the extent provided in Sections 4.04, 4.05, and/or 4.06. Ex-Im Bank acknowledges and agrees that any Borrower's failure to comply with any of the Guarantee eligibility requirements set forth in Section 3 shall not affect the binding nature of a Guarantee.

Ex-Im Bank reserves the right to pursue any or all other available remedies in the event of any such failure.

4.04 Timely Demand. In the event that the Agent fails to make demand on Ex-Im Bank on behalf of a Lender within the time period required in Section 8.02(b)(vi), the Guarantee of the unpaid installment of principal and/or interest as to which the Agent did not make such timely demand shall automatically terminate with respect thereto. This termination shall be without prejudice to the right of the Agent, on behalf of a Lender, to make demand on Ex-Im Bank under this Agreement for any other due and unpaid installments of principal or interest on any Note.

4.05 No Amendment. In the event that the Agent (whether or not acting on the instructions of a Lender) or any Lender, without Ex-Im Bank's prior written consent, agrees to an amendment or deviation prohibited by Section 9.03, Ex-Im Bank shall have the right to terminate the Guarantee with respect to all or a portion of the Guaranteed Amount of the Credit affected by such amendment or deviation if the Agent or such Lender, as the case may be, does not rescind or otherwise remedy the effect of such amendment or deviation to the satisfaction of Ex-Im Bank within thirty (30) calendar days after notice from Ex-Im Bank to the Agent and the relevant Lender to rescind or otherwise remedy the effect of such amendment or deviation. Ex-Im Bank shall exercise its right to terminate the Guarantee with respect to such Credit pursuant to this Section 4.05 by providing written notice thereof to the Agent and all affected Lenders. Any termination of the Guarantee with respect to a Credit by Ex-Im Bank under this Section 4.05 will be deemed effective as of the date on which the Agent or the relevant Lender, as the case may be, agreed to the prohibited amendment or deviation.

4.06 No Acceleration Without Consent. In the event that, without the prior written consent of Ex-Im Bank:

(a) the Agent (whether or not acting on the instructions of a Lender) shall declare all or any part of the Borrower's indebtedness under a Note to be immediately due and payable or to be due and payable upon the demand of the Agent; or

(b) any Lender makes any such declaration, which causes the Borrower's indebtedness under a Note to become immediately due and payable or due and payable upon demand of such Lender, as the case may be, under the terms of the Credit Agreement or applicable law,

then Ex-Im Bank shall have the right to terminate the Guarantee with respect to all or a portion of the Guaranteed Amount with respect to such Note. Ex-Im Bank shall exercise its right to terminate the Guarantee pursuant to this Section 4.06 by providing written notice thereof to the Agent and all affected Lenders. Ex-Im Bank will deem any termination of the Guarantee under this Section 4.06 effective as of the date of the relevant declaration by the Agent or the relevant Lender, as the case may be.

4.07 Revocation of Payment. Notwithstanding the provisions of Section 4.04, the Guarantee issued in connection with any Credit shall continue to be binding on Ex-Im Bank with respect to any payment, or any part thereof, of principal or interest on any Note that is rescinded or must otherwise be returned by the Agent or a Lender if such rescission or return of payment

has been compelled by law as the result of the bankruptcy or insolvency of the Borrower or any Guarantor, or if such rescission or return of payment is a result of any law, regulation or decree applicable to the Borrower or any Guarantor. A demand on Ex-Im Bank for payment pursuant to the Guarantee of any such returned amount must be made promptly but in no event later than thirty (30) days after the Agent or a Lender has actually returned such amount. At least fifteen (15) days prior to making such demand on Ex-Im Bank, the Agent, acting on behalf of itself and any such affected Lender, shall have made demand, if such demand is legally permissible, for payment on the Borrower or each Guarantor unaffected by the rescission action.

4.08 Payment Method. Ex-Im Bank's payments under each Comprehensive Guarantee shall be made as follows: (a) with respect to any Floating Rate Notes, the Accelerated Payment Method shall apply; and (b) with respect to any Fixed Rate Notes, the Installment Payment Method shall apply.

SECTION 5 ISSUANCE OF GUARANTEES

5.01 General. A Guarantee will apply to all Disbursements (a) with respect to which Ex-Im Bank has issued a Guarantee Certificate to the Agent on behalf of all Lenders, (b) evidenced by either (i) a Note which bears a Guarantee Legend or (ii) a Note or Note Series with respect to which Ex-Im Bank has issued a Guaranteed Note Certificate or (c) in the case of IDC Disbursements, with respect to which the Agent has delivered one or more Notices of IDC Disbursement to Ex-Im Bank.

5.02 Guarantee Certificates. At any time up to and including the Final Disbursement Date for a Credit, the Agent, on behalf of the Lenders, may request and Ex-Im Bank will issue, a Guarantee Certificate with respect to each Disbursement to be made on or prior to the Final Disbursement Date for such Credit in the manner described in, and pursuant to the terms and conditions of, Annex B and Annex B-1 (if applicable) to the Credit Agreement for such Credit.

5.03 Guarantee Legends and Guaranteed Note Certificates.

(a) The Agent, on behalf of the Lenders, may submit a Request for Guarantee (in the form and accompanied by the documents specified in Section 5.03(b)) to Ex-Im Bank when the aggregate principal amount of the actual Disbursement or Disbursements evidenced by any other Note or Note Series equals the principal amount of such Note or the aggregate principal amount of such Note Series, as the case may be. Each Request for Guarantee shall request that Ex-Im Bank either:

- (i) endorse a Guarantee Legend; or
- (ii) if the issuer of such Note or Note Series is located in a Restricted Legend Jurisdiction, unless otherwise agreed to by all parties, issue a Guaranteed Note Certificate;

in each case, *provided* that any Request for Guarantee shall be submitted (x) at least ten (10) Business Days before the Legend Certification Date; and (y) subject to the delivery to Ex-Im Bank of the relevant Note at least two (2) Business Days before the Legend Certification Date.

In the event that the Agent fails to submit the relevant Note to Ex-Im Bank by the date specified in clause (y) of the preceding sentence, unless otherwise agreed to in writing by Ex-Im Bank, the Request for Guarantee relating to such Note shall be considered to be withdrawn. Upon receipt of a Request for Guarantee, if the requirements set forth in this Agreement are satisfied, Ex-Im Bank will either endorse a Guarantee Legend or issue a Guaranteed Note Certificate for the relevant Credit in the manner described in and pursuant to the terms and conditions of this Agreement.

(b) Subject to Section 5.03(c), in the case of a Disbursement or Disbursements pursuant to a Global Note, the Request for Guarantee shall only be submitted after all Disbursements have been previously evidenced by one or more Guarantee Certificates, and, in the case of the IDC Disbursements, the Agent has delivered one or more Notices of IDC Disbursements to Ex-Im Bank. Any such Request for Guarantee shall be in the form of Annex D, accompanied by all documents specified therein.

(c) Except with respect to a Note (including any Serial Note of a Note Series) issued by a Borrower in a Restricted Legend Jurisdiction, on the front or back of the page on which the Borrower's signature appears on any Note submitted to Ex-Im Bank in accordance with this Section 5.03, the Agent shall type or stamp in the text of Ex-Im Bank's Guarantee Legend, completed as to the amount covered by the Guarantee, which amount of such Note the Agent has disbursed and with respect to which all requirements of this Agreement have been satisfied.

(d) Except as permitted by Section 5.04, in each Transaction, Ex-Im Bank will not be obligated to accept a Request for Guarantee with respect to any Note or Note Series later than the Guarantee Availability Date for the relevant Credit.

5.04 Replacement Notes.

(a) Mutilation, Loss, Theft or Destruction, Etc.

(i) Following the endorsement of a Guarantee Legend on a Note pursuant to Section 5.03, if such Note is mutilated, lost, stolen or destroyed, and the Borrower (in accordance with the Credit Agreement) issues and delivers to the Agent, on behalf of the Lenders, a new Note in exchange for the Note so mutilated, lost, stolen or destroyed, then the Agent, on behalf of the Lenders, may ask Ex-Im Bank to endorse a Guarantee Legend on the new Note issued by the Borrower by submitting a Request for Guarantee to Ex-Im Bank.

(ii) Following the issuance of a Guaranteed Note Certificate with respect to a Note (other than a Serial Note) or Note Series pursuant to Section 5.03, if such Note or Note Series (or any Serial Note of such Series) is mutilated, lost, stolen or destroyed, and the Borrower (in accordance with the Credit Agreement) issues and delivers to the Agent, on behalf of the Lenders, a new Note or Note Series in exchange for the Note or Note Series so mutilated, lost, stolen or destroyed, then the Agent, on behalf of the Lenders, may ask Ex-Im Bank to issue a new Guaranteed Note Certificate with respect to the new Note or Note Series, as the case may be, issued by the Borrower by submitting a Request for Guarantee to Ex-Im Bank.

(iii) The Agent shall have the duty of ensuring that (A) any replacement Note presented to Ex-Im Bank for the endorsement of a Guarantee Legend pursuant to this Section 5.04(a) is identical in form to the Note being replaced and (B) any replacement Note (including any replacement Serial Note of a Note Series) presented to Ex-Im Bank for the issuance of a Guaranteed Note Certificate pursuant to this Section 5.04(a) is identical in form and substance to the Note being replaced; in each case, provided that the Agent and Ex-Im Bank each acknowledges and agrees that pursuant to Section 9.07, the Agent shall indemnify Ex-Im Bank for all actual damages and costs suffered by Ex-Im Bank as a result of any failure by the Agent to comply with any of its obligations under this Section 5.04(a) but any such failure shall in no way affect the binding nature of any Guarantee issued with respect to the relevant Credit.

(b) Switch Option. Unless Ex-Im Bank otherwise agrees in writing:

(i) Except with respect to replacements of Notes pursuant to Section 5.04(a), Ex-Im Bank will issue a Guarantee Legend or a Guaranteed Note Certificate with respect to a new Note (other than a Serial Note) or Note Series replacing an outstanding Note or Note Series only if the new Note or Note Series, as the case may be, is issued in connection with an exercise of the Switch Option.

(ii) The endorsement of a Guarantee Legend or issuance of a Guaranteed Note Certificate in connection with an exercise of the Switch Option shall be subject to the following limitations:

(A) a single outstanding Note (other than a Serial Note) may only be replaced by multiple new Notes if the outstanding Note has a face amount of at least US\$1,000,000 and the replacement Notes are each in a face amount of at least US\$500,000;

(B) a single outstanding Serial Note may only be replaced in connection with the replacement of the entire Note Series of which it is a part and a single Note Series may only be replaced by multiple new Note Series if the outstanding Note Series has an aggregate face amount of at least US\$1,000,000 and the replacement Note Series are each in an aggregate face amount of at least US\$500,000;

(C) replacement Serial Notes may only be issued to the Agent, on behalf of the Lenders, of the outstanding Serial Notes being replaced; and

(D) the Agent must be the only Person named as payee on any replacement Note.

(iii) For each new Note or Note Series on which the Agent requests a Guarantee Legend or Guaranteed Note Certificate pursuant to an exercise of the Switch Option, the Agent shall submit the following documents to Ex-Im Bank at least ten (10) Business Days before the date requested for the endorsement of such Guarantee Legend or issuance of such Guaranteed Note Certificate:

(A) the outstanding Note or Note Series that has been replaced or is to be replaced in whole or in part by the new Note or Note Series, *provided*, that either: (1) such outstanding Note or each Serial Note of such outstanding Note Series bears Ex-Im Bank's Guarantee Legend; (2) such outstanding Note (if it is not a Serial Note) or such outstanding Note Series is accompanied by the Guaranteed Note Certificate Ex-Im Bank issued with respect to such Note or Note Series; or (3) such outstanding Note, Note Series, or each Serial Note of such outstanding Note Series lacking either Ex-Im Bank's Guarantee Legend or a Guaranteed Note Certificate is accompanied by the Guarantee Certificate(s) Ex-Im Bank issued with respect to such Note or Note Series;

(B) the new Note or Note Series, as the case may be, and any other replacement Note(s) or replacement Note Series taking the place of the outstanding Note or Note Series; and

(C) a Request for Guarantee in the form of Annex D with respect to the new Note or Note Series.

If the Agent does not desire to set the interest rate of the replacement Note(s) or Note Series, or to specify the number, denomination or face amount of such replacement Note(s) or Note Series, then on the date of its submission of the Request for Guarantee, in place of submitting each such new Note or Note Series as required by clause (B) above, the Agent may submit a draft Note or Note Series (that shall omit such information) together with a schedule of the Agent's good faith estimate of the number, denomination and face amounts of all Notes or Note Series with which the Agent wishes to replace the then outstanding Note(s) or Note Series; *provided*, that the actual replacement Note(s) or Note Series, as the case may be, fully completed in all respects, are submitted two (2) Business Days before the date requested for the endorsement of the new Guarantee Legend or issuance of a new Guaranteed Note Certificate. Subject to the conditions of this Section 5.04(b)(iii), Ex-Im Bank and the Agent shall arrange for the delivery of such new Note(s) or Note Series, with the appropriate Guarantee Legend(s) endorsed thereon or the appropriate Guaranteed Note Certificate issued with respect thereto, to the Agent by any date that the Agent informs Ex-Im Bank is the expected issuance date(s) of such new Note(s) or Note Series.

(iv) Upon receipt of the aforementioned documents, Ex-Im Bank shall cancel the Guarantee Legend on the then outstanding Note(s) and endorse the Guarantee Legend on the new Note(s) or issue new Guaranteed Note Certificate(s) with respect to the new Note(s), as appropriate.

(v) The Agent shall have the duty of ensuring that any replacement Notes presented to Ex-Im Bank for the endorsement of a Guarantee Legend or issuance of a new Guaranteed Note Certificate pursuant to this Section 5.04(b) are (A) identical in form (except with respect to dates, face amounts and interest rates) to the outstanding Note(s) being replaced; and (B) if the Agent elected to submit a draft Note as permitted by Section 5.04(b)(iii), identical in form (except with respect to dates, face amounts and interest rates) to the draft replacement Note previously submitted; in each case, *provided*,

that the Agent and Ex-Im Bank each acknowledges and agrees that pursuant to Section 9.07 the Agent shall indemnify Ex-Im Bank for all actual damages and costs suffered by Ex-Im Bank as a result of any failure by the Agent to comply with its obligation under this Section 5.04(b)(v) but any such failure shall in no way affect the binding nature of any Guarantee issued with respect to the relevant Credit.

5.05 Note Completion. With respect to all Notes submitted to Ex-Im Bank for a Guarantee Legend or Guaranteed Note Certificate, the Agent shall ensure:

(a) that the text of each such Note conforms with the text and format required by Section 2.07;

(b) that the date of issuance of each such Note conforms with all applicable terms and conditions of this Agreement, the relevant Ex-Im Bank Approval and any Credit Agreement for the establishment of such date;

(c) that the Agent's name and address are accurately reflected as payee on the face of each such Note;

(d) that the representation of the principal amount of each such Note is accurate and free of ambiguity between the numerical representation and the textual representation of each such principal amount;

(e) that, in the case of any Global Note issued before the Final Disbursement Date, the principal face amount of each Global Note, is greater than or equal to the aggregate principal amounts of any Guarantee Certificates previously issued with respect thereto; and

(f) that the due dates set forth in each such Note conform with all applicable terms and conditions of this Agreement, the relevant Ex-Im Bank Approval and any Credit Agreement for the establishment of such dates;

in each case, *provided* that the Agent and Ex-Im Bank each acknowledges and agrees that pursuant to Section 9.07 the Agent shall indemnify Ex-Im Bank for all actual damages and costs suffered by Ex-Im Bank as a result of any failure by the Agent to comply with its obligation under this Section 5.05 but any such failure shall in no way affect the binding nature of any Guarantee issued with respect to the relevant Credit.

SECTION 6 CONDITIONS PRECEDENT

6.01 Conditions Precedent to the Effectiveness of this Agreement. As conditions precedent to the effectiveness of this Agreement, Ex-Im Bank shall have received, in form and substance satisfactory to it, evidence of the authority (including specimen signatures) of each Person who, on behalf of the Agent, signed this Agreement, will sign the Requests for Guarantee or other documents required by this Agreement, and will otherwise act as the Agent's representative in the performance of this Agreement.

6.02 Conditions Precedent. The Utilization of each Credit shall be subject:

(a) if Ex-Im Bank's Guarantee of the Credit is a Comprehensive Guarantee, to the execution of a Credit Agreement; to the satisfaction of each of the conditions precedent set forth in the Ex-Im Bank Approval with respect to such Credit, if any; and

(b) to the satisfaction of each of the conditions precedent set forth in the Credit Agreement.

SECTION 7 COMMITMENT FEES AND PAYMENT METHOD

7.01 Commitment Fees.

(a) In connection with each Transaction, if the Agent is the "Applicant" named on the relevant Ex-Im Bank Application then the Agent shall either:

(i) deliver with such Ex-Im Bank Application at the time of submission to Ex-Im Bank a duly authorized and executed letter from the relevant Lenders, whereby the Lenders agree to pay or cause to be paid to Ex-Im Bank a guarantee commitment fee (a "Commitment Fee") with respect to such Transaction, whether or not the Transaction is consummated (including, without limitation, whether or not any Credit Agreement is executed or Note is issued), at the rate per annum specified in the relevant Ex-Im Bank Approval on the uncanceled and undisbursed balance from time to time of the Credit, computed on the basis of the actual number of days elapsed (including the first day but excluding the last), using a 360-day year, accruing from the date specified in the relevant Ex-Im Bank Approval to the Final Disbursement Date, and payable on the dates specified in such Ex-Im Bank Approval beginning on the date specified therein; or

(ii) deliver with such Ex-Im Bank Application at the time of submission to Ex-Im Bank a duly authorized and executed letter from the Borrower in the form of Exhibit A-1 to Annex A (a "Fee Letter") pursuant to which the Borrower agrees to pay or cause to be paid to Ex-Im Bank the relevant Commitment Fee.

(b) The Agent acknowledges and agrees that the Commitment Fee shall continue to accrue and become due and payable as described above during any period in which Utilizations are suspended as described in Section 10.08(a).

7.02 Method of Payment.

(a) All payments required by this Section 7 shall be made without set-off or counterclaim in U.S. Dollars in immediately available and freely transferable funds no later than 11:00 A.M. (New York City time) on the date on which due (as applicable) to Ex-Im Bank at the Federal Reserve Bank of New York for credit to Ex-Im Bank's account: U.S. Treasury Department 021030004 TREAS NYC/CTR/BNF=/AC-4984 OBI=Export-Import Bank Due _____ on EIB Transaction No. AP_____- [Country] from [_____] for Commitment Fee, or as otherwise directed in writing by the Treasurer-Controller or an Assistant Treasurer of Ex-Im Bank.

(b) Except as otherwise provided herein, whenever any payment would otherwise fall

due on a day that is not a Business Day, the due date for payment shall be the immediately succeeding Business Day and interest and fees shall be computed in accordance with Section 10.03.

SECTION 8 CLAIM PROCEDURES

8.01 Failure to Pay. In the case of a Comprehensive Guarantee, in the event that:

(a) the Borrower and the Guarantors, if any, respecting any Credit fail for any reason (including, without limitation, debt relief accorded by the United States to the Borrower's Country or the imposition of withholding taxes by the Borrower's Country) to pay in full any regularly scheduled installment of principal of or interest on a Note for more than thirty (30) calendar days after the due date of such installment; and

(b) a period of fifteen (15) calendar days has elapsed since the Agent has made written demand for payment on the Borrower and any Guarantors (which demand may be omitted only if and to the extent that the making thereof would be prohibited by any applicable law governing the bankruptcy or insolvency of the Borrower or a Guarantor as appropriate);

then the Agent, on behalf of all Lenders, may make demand for payment on Ex-Im Bank in accordance with the provisions of Section 8.02 with respect to all outstanding Notes issued in connection with such Credit.

Any failure by a Borrower to make an optional prepayment under a Credit Agreement shall not be a payment default that entitles the Agent to make demand on Ex-Im Bank under this Agreement.

8.02 Demand on Ex-Im Bank.

(a) Subject to Section 8.01, the Agent shall be entitled to make a demand on Ex-Im Bank for compensation. In the event that a demand made pursuant to the previous sentence is not for the full amount of the installment(s) of principal and/or interest unpaid as of the date of such demand, the Agent shall be entitled to make a second demand on Ex-Im Bank for compensation with respect to all or any part of the remaining amount. Subject to Section 8.02(b), the Agent may make its initial demand at any time after the end of the period specified in Section 8.01, and the Agent may make any second demand any time after the first demand and within the time period specified in Section 8.02(b)(vi).

(b) Each demand by the Agent on Ex-Im Bank must:

(i) be in writing and submitted to the Vice President of Ex-Im Bank's Asset Management Division;

(ii) be made only by the Agent;

(iii) identify each Note covered by such demand and, with respect to each such Note, the relevant Lender(s), the installment(s) of principal and/or interest unpaid as of

the date of such demand;

(iv) include the assignments required under Section 8.03(a);

(v) include a copy of the Agent's written demand for payment on the Borrower and any Guarantors with respect to all Notes issued under the relevant Credit (or, in the event such demand was omitted with respect to the Borrower or any Guarantor pursuant to Section 8.01, evidence of (x) such party's bankruptcy or insolvency, (y) the applicable prohibition and (z) the Agent's demand for payment on those parties not subject to such prohibition); and

(vi) subject to Section 4.07, be made not later than one hundred and fifty (150) calendar days from the due date of the unpaid installment(s) of principal and/or interest on which the Agent's demand for payment is based.

In the event that the Agent's demand is based upon a failure by the Borrower and any Guarantors to pay interest that is due and payable prior to the first Repayment Date, the item listed in Section 8.02 (b)(iv) above shall not be required, but such demand must be accompanied by a written assignment, satisfactory to Ex-Im Bank, of all of the Agent's and the relevant Lenders' respective rights with respect to such overdue interest and the interest accrued thereon. The Agent waives any right to make a demand under the Guarantee of a Credit with respect to any Note evidencing such Credit that is not covered by the two demands the Agent is permitted to make pursuant to this Section 8.02.

8.03 Assignment to Ex-Im Bank.

(a) Upon making a demand on Ex-Im Bank pursuant to Section 8.02 with respect to any Note(s) issued under a particular Credit, the Agent shall submit to Ex-Im Bank assignments in the form of Annex E to this Agreement of all of its and the relevant Lenders' respective rights, title and interest (if any) in and to:

(i) all outstanding Notes issued in connection with such Credit that are covered by the relevant demand, each endorsed by the Agent, on behalf of the relevant Lenders, to the order of Ex-Im Bank without recourse to the Agent or any such Lender (which Notes shall not be stamped, marked or amended in a manner prohibited by Section 9.03 or canceled, destroyed, perforated or mutilated);

(ii) the Credit Agreement;

(iii) any and all Security granted in connection with such Credit and/or all Notes issued in connection with such Credit; and

(iv) any other instrument or agreement executed by the Borrower or any Guarantor regarding obligations of the Borrower or any Guarantor covered by the Guarantee.

(b) For the purposes of this Agreement, "Security" shall mean any security granted in connection with a Credit and/or Notes to secure amounts related to such Credit and/or the

outstanding Notes issued in connection with such Credit that are covered by the Guarantee. “Security” for a particular Credit shall *not* include:

- (i) any security obtained by the Agent and/or the relevant Lenders with respect to amounts related to such Credit and/or the Notes issued in connection with such Credit but not covered by the relevant Guarantee;
- (ii) any general security arrangement obtained by or conveyed to the Agent and/or the relevant Lenders that is not obtained or conveyed in connection with such Credit and/or such Notes but may be applicable to such Credit and/or such Notes; or
- (iii) any Indemnity Agreement and security therefor; or
- (iv) any other form of security or credit support obtained by or conveyed to the Agent and/or the relevant Lenders that is not obtained or conveyed in connection with or is otherwise unrelated to such Credit and/or such Notes.

8.04 Conditions of Guarantee. With respect to each Guarantee, Ex-Im Bank hereby waives diligence, presentment, protest and any requirement that the Agent or any Lender exhaust any right or take any action against or give notice to the Borrower, any Guarantors or Ex-Im Bank, except for the written demands for payment by the Agent on the Borrower, any Guarantors and Ex-Im Bank required under this Agreement.

8.05 Payment by Ex-Im Bank.

(a) For each demand on Ex-Im Bank made pursuant to Section 8.02, after the date on which the Agent shall have properly documented its demand on Ex-Im Bank for payment in accordance with the procedures of this Agreement (the “Demand Date”), with respect to each outstanding Note, Ex-Im Bank shall pay to the Agent, for the benefit of each Lender specified in the relevant demand, the Guaranteed Amount in accordance with the Payment Method provided in Section 4.08.

(b) Ex-Im Bank shall make the payment required by Section 8.05(a) within five (5) Business Days after the Demand Date, unless Ex-Im Bank determines that additional time is required due to the large number of claims then pending at Ex-Im Bank, in which event Ex-Im Bank shall make such payment no later than fifteen (15) Business Days after the Demand Date.

(c) In the case of each demand made with respect to a Floating Rate Note, after the later of (x) the relevant Demand Date and (y) the relevant first Payment Date, Ex-Im Bank shall pay in a single installment (an “Accelerated Payment”) the Guaranteed Amount (the “Accelerated Payment Method”).

(d) In the case of each demand made with respect to a Fixed Rate Note, after the later of (x) the relevant Demand Date and (y) the relevant first Payment Date, Ex-Im Bank shall:

- (i) in the case of each such Note under which a payment default has occurred, pay to the Agent an amount equal to the sum of (A) the due and unpaid installment(s) of principal and/or interest that is included in the Guaranteed Amount, and (B) the interest

accrued on the installment(s) described in clause (i)(A) at the Guaranteed Interest Rate from the due date(s) for such installment(s) to the date of payment by Ex-Im Bank; and

(ii) issue and deliver to the Agent, on behalf of the relevant Lenders, a payment certificate in the form of Annex F (a “Payment Certificate”) with respect to the outstanding (but not yet due and payable) balance of the Note that is included in the Guaranteed Amount (the payment method described in this Section 8.05(d), the “Installment Payment Method”). In accordance with the terms of each Payment Certificate, Ex-Im Bank will pay the principal amount of such Payment Certificate in installments on the payment dates and in the amount set forth therein, including interest accrued thereon at the Guaranteed Interest Rate.

(e) All payments of the Guaranteed Amount due under this Agreement shall be made by Ex-Im Bank to the Agent, for the benefit of the relevant Lenders, and such payments to the Agent shall discharge fully and completely Ex-Im Bank’s liability to the relevant Lenders.

(f) If the Guarantee terminates pursuant to Section 4.04, 4.05 or 4.06 with respect to one or more installments of principal and/or interest, all installments of principal and/or interest on the Notes as to which the Guarantee has terminated shall be deemed to have been paid in full when and as due for the purposes of determining the amount payable by Ex-Im Bank under this Section 8.05.

(g) Notwithstanding anything to the contrary contained herein with respect to interest due on or after the first Repayment Date, if the Agent’s demand is based upon a failure by the Borrower and any Guarantor to pay interest that is due and payable prior to the first Repayment Date, Ex-Im Bank shall pay an amount equal to the sum of (i) such due and unpaid interest and (ii) the interest accrued at the Guaranteed Interest Rate on such due and unpaid interest from its due date to the date of payment by Ex-Im Bank.

(h) In the event that Ex-Im Bank fails to make claim payment within fifteen (15) Business Days after the Demand Date, thereby failing to comply with its obligations under Section 8.05(b), for each additional day after the fifteenth Business Day up to the day on which Ex-Im Bank makes claim payment, Ex-Im Bank shall pay to the Agent, for the benefit of the relevant Lenders, an additional amount equal to the difference between (i) interest accrued on the defaulted installment(s) of principal and/or interest at the Guaranteed Interest Rate as provided in the foregoing provisions of this Section 8.05 and (ii) interest on such installment(s) calculated at a rate per annum equal to the sum of: (x) one percent (1%) and (y) the higher of the Guaranteed Interest Rate or the Federal Funds Rate.

8.06 Rights After Payment by Ex-Im Bank. Upon the first payment by Ex-Im Bank under Section 8.05(a):

(a) Ex-Im Bank, by virtue of the assignments made pursuant to Sections 8.03(a), shall acquire all right, title and interest of the Agent and the Lenders, respectively, in and to all outstanding Notes issued in connection with such Credit with respect to which demand for payment has been made on Ex-Im Bank, any Security granted in connection with the relevant Credit and the Credit Agreement, and shall be entitled, in Ex-Im Bank’s sole discretion, to

pursue collection for Ex-Im Bank's own account of all amounts due or to become due on or under such Notes, the Credit Agreement, and such Security;

(b) thereafter, the Agent and the Lenders, with respect to such Notes, the Credit Agreement, and such Security, shall be entitled only to payments from Ex-Im Bank made in accordance with this Agreement and

(c) the Agent and each Lender shall be entitled to exercise all of their legal rights and remedies in respect of each of their right, title and interest in the relevant Indemnity Agreement except that all payments received by the Agent shall be made in accordance with Section 9.05

SECTION 9 UNDERTAKINGS OF THE AGENT

The Agent agrees that so long as Ex-Im Bank remains liable under this Agreement:

9.01 Register. The Agent shall establish and maintain a register for recording with respect to each Lender:

(a) the name and address of each current and previous Lender;

(b) the date of any transfer or assignment by any Lender of all or any of its interest in any Note and the amount or interest so transferred or assigned;

(c) the date and amount of each payment made by or on behalf of the Borrower or any Guarantors on such Note; and

(d) the date and amount of each payment made by Ex-Im Bank under this Guarantee Agreement that is made pursuant to the Disbursement Payment Method, if applicable;

in the case of each of (a), (b) and (c) above, to the extent the Agent has been notified by the Lenders of the same.

(e) At Ex-Im Bank's request, the Agent shall make such register available to Ex-Im Bank. The Agent shall maintain such register with respect to such Notes until such time as the Notes have been repaid in full or Ex-Im Bank has either issued a Payment Certificate or made an Accelerated Payment with respect to such Notes. After such time, the Agent need not retain the register, *provided* the Agent shall have first delivered to Ex-Im Bank's Asset Management Division a copy of the register, certified by the Agent as a true, complete and correct copy, which copy Ex-Im shall have found to be reasonably satisfactory in form and substance.

9.02 Notices.

(a) The Agent shall notify Ex-Im Bank promptly but in no event later than thirty (30) days after receipt of knowledge of:

(i) any failure by a Borrower or any Guarantor to pay when due any amount owing under any Credit Agreement or any Note;

(ii) the occurrence of any payment default by the Borrower on any of the Borrower's material External Indebtedness, which payment default the Agent reasonably determines could affect materially and adversely the Borrower's ability to repay its indebtedness under any Credit Agreement or any Note;

(iii) the receipt of any prepayment made by or on behalf of the Borrower or any Guarantor on any Note; and

(iv) the return of any payment previously made by the Borrower or any Guarantor to the Agent or any Lender under the circumstances described in Section 4.07.

With respect to events described in clause (iii) of the foregoing sentence, notice shall be sent to the Vice President of the Responsible Division of Ex-Im Bank and to Ex-Im Bank's Chief Financial Officer.

(b) The Agent shall use reasonable efforts to notify Ex-Im Bank promptly but in no event later than thirty (30) days after receipt of knowledge of the occurrence of any Event of Default not covered in Section 9.02(a).

(c) The Agent shall notify Ex-Im Bank promptly if any Person identified pursuant to Section 6.01 ceases to be authorized on behalf of the Agent to sign the Requests for Guarantee or other documents required by this Agreement, or otherwise to act as the Agent's representative in the performance of this Agreement. The Agent shall notify Ex-Im Bank promptly of each new Person who receives authorization to act on behalf of the Agent in the manner specified in Section 6.01, which notice shall be accompanied by the evidence of the authority specified in such Section.

9.03 Prohibited Amendments. The Agent will not, without Ex-Im Bank's prior written consent, agree to any material amendment of the terms of any Credit Agreement or the terms of any Note, or consent to any material deviation from the respective provisions thereof, including, without limitation, (a) a change in the payment terms under any Credit Agreement or any Note or (b) a change in the place of payment (except to any other account of the Agent located in the United States or at another office of the Agent located in the United States) of amounts payable under any Credit Agreement or any Note.

9.04 Delivery of Documents. The Agent shall deliver or cause to be delivered all documents required by Ex-Im Bank from the Agent and the L/C Bank (as defined in a Credit Agreement), under Annex B and Annex B-1 (if applicable) of each such Credit Agreement. The Agent shall make reasonable efforts to cause the Lenders to deliver to Ex-Im Bank all documents required from the Lenders under Annex B and Annex B-1 (if applicable) of each such Credit Agreement. For the purpose of this Section 9.04, "reasonable efforts" shall include, without limitation, requiring in writing that each Lender comply with the preceding sentence.

9.05 Payments Following Demand on Ex-Im Bank. In the event that the Agent or any Lender receives from any party other than Ex-Im Bank a payment under or related to any Note, any Credit Agreement or any Security (a "Non-Ex-Im Bank Payment") with respect to any Credit:

(a) After the date of demand on Ex-Im Bank by the Agent pursuant to Section 8.02 but prior to the date of Ex-Im Bank's first payment under this Agreement, the Agent shall, or shall make reasonable efforts to cause the relevant Lenders to, promptly but in no event later than five (5) Business Days after receipt notify Ex-Im Bank of the date and amount of such Non-Ex-Im Bank Payment and such payment shall be applied in accordance with the application of payments provisions of the relevant Credit Agreement.

(b) After Ex-Im Bank's first payment under this Agreement in accordance with the Disbursement Payment Method, until the amounts assigned to Ex-Im Bank under this Agreement with respect to such Credit have been paid in full, the Agent shall, or shall make reasonable efforts to cause the relevant Lenders to, forward promptly to Ex-Im Bank such Non-Ex-Im Bank Payment.

(c) After Ex-Im Bank's first payment under this Agreement in accordance with the Accelerated Payment Method or Installment Payment Method, the Agent shall, or shall make reasonable efforts to cause the relevant Lenders to, forward promptly to Ex-Im Bank such relevant Non-Ex-Im Bank Payment.

For the purpose of this Section 9.05, "reasonable efforts" shall include, without limitation, requiring in writing that each Lender comply with the terms of clauses (a), (b) and (c) above.

9.06 Transfer of Rights, Duties, and Responsibilities under this Agreement. The Agent will not, without Ex-Im Bank's prior written consent, assign or otherwise transfer: (a) the Agent's right to make demand for payment on and receive payment from Ex-Im Bank for the benefit of the Lenders in accordance with the provisions of Section 8; and (b) any of its other rights, duties or responsibilities under this Agreement, except that the foregoing shall not restrict an assignment or transfer by operation of law. Nothing in this Section 9.06 is intended to restrict or otherwise limit (i) any Lender's right to assign or otherwise transfer any interest in any Note or to grant participations therein, or to the extent permitted under any Credit Agreement, to assign or otherwise transfer any of its Commitments or outstandings to any Borrower under any such Credit Agreement or (ii) the right of the Lenders to remove the Agent, or the right of the Agent to resign, in accordance with the provisions of the relevant Credit Agreement; *provided* that Ex-Im Bank is entitled to consent to the choice of a successor Agent in accordance with such Credit Agreement.

9.07 Indemnification. In the event that the Agent fails to fulfill any of its responsibilities under this Agreement, the Agent shall be liable to Ex-Im Bank for all of the actual damages suffered by, or costs incurred by, Ex-Im Bank as a result thereof and shall indemnify Ex-Im Bank for such actual damages and costs. The Agent shall not be liable for incidental or consequential damages. The coverage of this Agreement with respect to any interest in a Note the Agent holds in its capacity as a Lender shall not be affected by any such failure, and such failure shall not impair the rights of any other Lender under this Agreement. Ex-Im Bank may enforce its rights under this Section 9.07, and pursue all remedies available with respect thereto, in any court of competent jurisdiction. Notwithstanding anything to the contrary contained herein, the agreements set forth in this Section 9.07 shall survive the termination of this Agreement and the payment of all or any portion of a Guaranteed Amount.

SECTION 10 MISCELLANEOUS

10.01 Governing Law; Waiver of Jury Trial.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, U.S.A.

(b) FOR THE PURPOSES OF THIS AGREEMENT, EACH OF THE AGENT AND EX-IM BANK HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OR OMISSIONS OF ANY PARTY HERETO, OR ANY OTHER PERSON, RELATING TO THIS AGREEMENT.

10.02 Notices. Except as otherwise specified, all notices given hereunder shall be in writing in the English language, shall include the MGA No. and the applicable Ex-Im Bank Transaction Number (if any), and shall be given by mail, facsimile, or personal delivery, and deemed to be given for the purposes of this Agreement on the day that such notice is received by the intended recipient thereof.

(a) Notices to the Agent. Unless otherwise specified in a notice delivered in accordance with this Section 10.02, all notices to the Agent shall be delivered to the Agent at the street address, facsimile number, or e-mail address specified on the Agent Information sheet preceding the table of contents to this Agreement.

(b) Notices to Ex-Im Bank. Unless otherwise specified in a notice delivered in accordance with this Section 10.02, all notices to Ex-Im Bank shall be delivered:

(i) in the case of notices to Ex-Im Bank with respect to a particular Transaction, (A) prior to the first Utilization, to the attention of the Vice President of the Responsible Division and (B) after the first Utilization, to the attention of the Vice President of the Asset Management Division at the address or facsimile number specified below:

Address: Export-Import Bank of the United States
811 Vermont Avenue, N.W.
Washington, D.C. 20571

Facsimile: (1-202) 565-3625 (Asset Management Division)

Telephone: (1-202) 565-3600 (Asset Management Division);

(ii) in the case of any notice to Ex-Im Bank, the required recipient of which is otherwise specified herein, addressed to Ex-Im Bank at the address listed below for the attention of such required recipient, and if given by facsimile, sent to the "Bank-wide" facsimile number specified below; and

(iii) in all other cases, addressed to Ex-Im Bank at the address number noted below for the attention of the Group Vice President - Structured & Trade Finance Group, and if given by telephone or facsimile, sent to the “Structured & Trade Finance Group” telephone and facsimile numbers specified below:

Address: Export-Import Bank of the United States
811 Vermont Avenue, N.W.
Washington, D.C. 20571

Facsimile: (1-202) 565-3226 (Structured & Trade Finance Group)
(1-202) 565-3380 (Bank-wide)

Telephone: (1-202) 565-3225 (Structured & Trade Finance Group)
(1-202) 565-3946 (Bank-wide)

(c) Notices to a Lender. Unless otherwise specified herein, all notices to a Lender shall be delivered, to the address of such Lender specified in the applicable Credit Agreement. In the case of a Lender who is not also the Agent, a notice shall be deemed to have been given to such Lender five (5) Business Days after delivery to the Agent of such notice.

(d) Notices to a Certificate Holder. Unless otherwise specified in a notice delivered in accordance with this Section 10.02, all notices to a Certificate Holder shall be delivered to the address appearing for such Certificate Holder on Ex-Im Bank's registry books.

10.03 Computations. Unless otherwise specified in an Ex-Im Bank Approval with respect to a Transaction, all computations of interest and fees hereunder and under the Note(s) shall be made on the basis of a year of 360 days and actual days elapsed. All such calculations shall include the first day and exclude the last day of the period of calculation.

10.04 Benefit of Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto.

10.05 Entire Agreement. This Agreement and the Ex-Im Bank Approval with respect to each Transaction contain the entire agreement between the parties hereto regarding the Guarantee of the relevant Credit with respect to such Transaction.

10.06 Amendment or Waiver.

(a) Amendment or Waiver of this Agreement. Except for the terms and conditions of Section 10.07 and this Section 10.06, Ex-Im Bank may amend or modify any of the terms and conditions of this Agreement by written notice to the Agent. Unless the Agent consents in writing, no such change shall affect any Transaction with respect to which Ex-Im Bank has issued an Ex-Im Bank Approval prior to the date of such change. The Agent may not amend, modify or waive this Agreement without the written consent of Ex-Im Bank. Any amendment or waiver of any provision of this Agreement by Ex-Im Bank in connection with any Transaction shall be limited to the particular Transaction and shall not constitute an amendment or waiver of such provision for any other purpose.

(b) Amendment or Waiver of an Ex-Im Bank Approval. An Ex-Im Bank Approval may not be changed, discharged or terminated (except as expressly provided herein) without the

written consent of the parties hereto, and no provision thereof may be waived without the written consent of the party to be bound thereby.

10.07 Termination. In addition to any other discharge or termination provisions expressly provided herein, either the Agent or Ex-Im Bank may discharge or terminate this Agreement upon fifteen (15) days' prior written notice to the other party hereto; *provided*, that such discharge or termination shall not affect any Transaction with respect to which Ex-Im Bank has issued an Ex-Im Bank Approval prior to the date of such discharge or termination without the written consent of the parties hereto.

10.08 Suspension and Cancellation by Ex-Im Bank.

(a) If a Borrower fails to pay when due any amount owing under any Fee Letter, any Credit Agreement, or any Note with respect to a Credit, or if any other Event of Default should occur and be continuing, then Ex-Im Bank, by written notice to the Agent, the Borrower and any Guarantor, may:

(i) suspend further Utilizations of the Credit until Ex-Im Bank is satisfied that the cause of such suspension has been removed; or

(ii) cancel the unutilized and uncanceled amount of the Credit; provided, however, that Ex-Im Bank shall not suspend or cancel any portion of the Credit for which Letters of Credit have been issued, advised or confirmed.

The Agent shall promptly forward to the Lenders copies of any such written notice.

(b) If all conditions precedent to first Utilization provided in the relevant Credit Agreement and in this Agreement with respect to a Transaction are not fulfilled to the sole satisfaction of Ex-Im Bank on or prior to the "Required Operative Date" specified in the Credit Agreement, then after taking into account the circumstances of such failure, Ex-Im Bank, by written notice to the Agent, the Borrower, and any Guarantor, may cancel the Credit. The Agent shall promptly forward to the Lenders copies of any such written notice.

(c) In the event of a cancellation of all or part of a Credit by Ex-Im Bank:

(i) if the Agent is the "Applicant" named on the relevant Ex-Im Bank Application, the Agent shall pay, or cause the Borrower to pay or cause to be paid, to Ex-Im Bank all commitment fees accrued and unpaid under Section 7.01; and

(ii) the Agent shall pay, or cause the Borrower to pay or cause to be paid to Ex-Im Bank all other amounts due and payable under this Agreement as of such date.

In each Transaction, the Agent's duty under clause (i) of this Section 10.08(c) shall be satisfied by the delivery to Ex-Im Bank of the Fee Letter referred to in Section 7.01(a)(ii).

10.09 Reliance on Agent's Evidence Authority. Ex-Im Bank may rely on the evidence of authorization provided by the Agent pursuant to Section 6.01 as modified by any notice the Agent delivers pursuant to Section 9.02(c), and Ex-Im Bank shall not be required to make any

further inquiry with respect to the matters stated therein. Subject to Section 10.07, the Agent agrees to be irrevocably bound by each Request for Guarantee or other document required by this Agreement or notice delivered hereunder that is purportedly executed on behalf of the Agent in a manner consistent with the evidence of authorization provided pursuant to Section 6.01 as modified by a notice delivered pursuant to Section 9.02(c).

10.10 Counterparts. This Agreement may be signed in separate counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

10.11 English Language. All documents to be delivered by any party hereto pursuant to the terms hereof shall be in the English language, or if originally written in another language, shall be accompanied by an accurate English translation upon which the other parties hereto shall have the right to rely for all purposes under this Agreement.

10.12 Severability. To the extent permitted by applicable law, the illegality or unenforceability of any provision of this Agreement shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement.