

01-31-2000



101252679

U.S. Department of Commerce
Patent and Trademark Office
PATENT

MRO

12-20-99

**RECORDATION FORM COVER SHEET
PATENTS ONLY**

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

☒ **New**
☐ **Resubmission (Non-Recordation)**
Document ID#
☐ **Correction of PTO Error**
Reel # Frame #
☐ **Corrective Document**
Reel # Frame #

Conveyance Type

☐ **Assignment** ☒ **Security Agreement** with attached
Intercreditor Agreement
☐ **License** ☐ **Change of Name**
☐ **Merger** ☐ **Other**
U.S. Government
(For Use ONLY by U.S. Government Agencies)
☐ **Departmental File** ☐ **Secret File**

Conveying Party(ies)

☐ Mark if additional names of conveying parties attached

Name (line 1) Moltech Corporation

Execution Date
Month Day Year
11/01/1999

Name (line 2) XXXXXXXXXXXX 9000 South Rita Road, Bldg. 061, Tucson, AZ 85747-9108

Second Party

Name (line 1)

Execution Date
Month Day Year
11/01/1999

Name (line 2)

Receiving Party

☒ Mark if additional names of receiving parties attached

Name (line 1) Meltzer, Lippe, Goldstein & Schlissel, P.C., As Trustee,
for the benefit of the holders of Moltech Corporation's
Name (line 2) 7% Subordinated Convertible Promissory Notes Due
September 30, 2004.

Address (line 1) 190 Willis Avenue

Address (line 2)

Address (line 3) Mineola

City

New York

State/Country

11501

Zip Code

☐ If document to be recorded
is an assignment and the
receiving party is not
domiciled in the United
States, an appointment
of a domestic
representative is attached.
(Designation must be a
separate document from
Assignment.)

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name Meltzer, Lippe, Goldstein & Schlissel, P.C. Att: Raymond A. Joao

Address (line 1) 190 Willis Avenue, Mineola, New York 11501

Address (line 2)

Address (line 3)

Address (line 4)

01/31/2000 DCOATES 00000027 09293498

FOR OFFICE USE ONLY

01 FC:581

1960.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

PATENT
REEL: 010470 FRAME: 0812

Correspondent Name and Address

Area Code and Telephone Number (516) 747-0300

Name Meltzer, Lippe, Goldstein & Schlissel, P.C. Att: Raymond A. Joao

Address (line 1) 190 Willis Avenue, Mineola, New York 11501

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

Application Number(s) or Patent Number(s)

☒ XX

Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)

Patent Number(s)

09/293,498

09/033,218

09/257,849

5,128,587

5,264,092

5,460,905

09/336,247

08/994,708

08/995,090

5,462,566

5,538,812

5,529,860

08/995,089

09/215,112

08/995,122

5,580,527

5,601,947

5,648,187

If this document is being filed together with a new Patent Application, enter the date the patent application was signed by the first named executing inventor.

Month Day Year

Patent Cooperation Treaty (PCT)

Enter PCT application number
only if a U.S. Application Number
has not been assigned.

PCT

PCT

PCT

PCT

PCT

PCT

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment:
Deposit Account

Enclosed ☐

Deposit Account ☐

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes ☐

No ☐

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Raymond A. Joao

Name of Person Signing

Signature

Date

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

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Patent Application Number(s)

Patent Number(s)

09/172,720

08/994,343

09/079,995

5,690,702

5,919,996

5,961,672

09/093,528

09/093,527

09/205,873

5,962,171

09/215,030

09/215,029

09/399,967

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Month Day Year

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Area Code and Telephone Number

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Patent Application Number(s)

09/215,057

09/215,115

09/271,625

60/132,348

60/132,393

60/139,031

60/151,275

08/889,202

08/994,708

Patent Number(s)

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only if a U.S. Application Number has not been assigned.

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Name of Person Signing

Signature

Date

Correspondent Name and Address

Area Code and Telephone Number

(516) 747-0300

Name

Meltzer, Lippe, Goldstein & Schlissel, P.C. Att: Raymond A. Joao

Address (line 1)

190 Willis Avenue, Mineola, New York 11501

Address (line 2)

Address (line 3)

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Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)

08/995,090

08/995,089

08/995,122

09/172,720

08/994,343

09/079,995

09/093,528

09/093,527

09/205,873

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If this document is being filed together with a new Patent Application, enter the date the patent application was signed by the first named executing inventor.

Month Day Year

Patent Cooperation Treaty (PCT)

Enter PCT application number
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has not been assigned.

PCT

PCT

PCT

PCT

PCT

PCT

Number of Properties

Enter the total number of properties involved.

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49

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$

1,960.00

Method of Payment:

Enclosed ☒

Deposit Account ☐

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

50-0907

Authorization to charge additional fees:

Yes

☒

No

☐

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Raymond A. Joao

Name of Person Signing

Reg. No. 35,907

Signature

Date

12/15/99

RECORDATION FORM COVER SHEET
CONTINUATION
PATENTS ONLY

U.S. Department of Commerce
Patent and Trademark Office
PATENT

Conveying Party(ies)

☐ Mark if additional names of conveying parties attached

Enter additional Conveying Parties

Name (line 1)	<input type="text"/>	Execution Date Month Day Year	<input type="text"/>
Name (line 2)	<input type="text"/>	Execution Date Month Day Year	<input type="text"/>
Name (line 1)	<input type="text"/>	Execution Date Month Day Year	<input type="text"/>
Name (line 2)	<input type="text"/>	Execution Date Month Day Year	<input type="text"/>
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Name (line 2)	<input type="text"/>	Execution Date Month Day Year	<input type="text"/>

Receiving Party(ies)

☐ Mark if additional names of receiving parties attached

Enter additional Receiving Party(ies)

Name (line 1)	<input type="text" value="Meltzer, Lippe, Goldstein & Schlissel, P.C., As Trustee, for the benefit of the holders of Moltech Corporation's 7% Promissory Notes Due February 28, 2003."/>			<input type="checkbox"/> If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)
Name (line 2)	<input type="text" value="XXXXXXXXXX"/>			
Address (line 1)	<input type="text" value="190 Willis Avenue, Mineola, New York 11501"/>			
Address (line 2)	<input type="text"/>			<input type="checkbox"/> If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)
Address (line 3)	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	City	State/Country	Zip Code	
Name (line 1)	<input type="text"/>			
Name (line 2)	<input type="text"/>			
Address (line 1)	<input type="text"/>			<input type="checkbox"/> If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)
Address (line 2)	<input type="text"/>			
Address (line 3)	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	City	State/Country	Zip Code	

Application Number(s) or Patent Number(s)

☐ Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)			Patent Number(s)		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

RESTATED PATENT SECURITY AGREEMENT

RESTATED PATENT SECURITY AGREEMENT, dated as of October 29, 1999, by Moltech Corporation, a Delaware corporation ("**Grantor**"), in favor of Meltzer, Lippe, Goldstein & Schlissel, P.C., as Trustee (the "**Trustee**"), for the benefit of the holders of the 2003 Notes and the holders of the 2004 Notes (as hereinafter defined).

A. Pursuant to Securities Purchase and Investor Rights Agreements (the "**2003 Purchase Agreements**"), dated February 28, 1998 and April 29, 1999, by and between Grantor and the Investors identified therein (the "**2003 Investors**"), the Grantor has issued to the 2003 Investors its 7% Promissory Notes Due February 28, 2003 (the "**2003 Notes**")

B. Pursuant to that certain Securities Purchase and Investor Rights Agreement dated October 29, 1999 (the "**2004 Purchase Agreement**"), by and among Grantor and the Investors identified therein (the "**2004 Investors**"), the Company has issued to the 2004 Investors its 7% Subordinated Convertible Promissory Notes Due September 30, 2004 (the "**2004 Notes**");

C. Pursuant to the 2003 Purchase Agreements and the 2004 Purchase Agreement, the Grantor has executed and delivered to the Trustee for the benefit of the holders of the 2003 Notes and the holders of the 2004 Notes that certain Security Agreement dated February 28, 1998, as amended by the Omnibus Amendment Agreement dated April 29, 1999, Second Amendment to Security Agreement and Agreement Between Lending Groups dated July 29, 1999 and Amendment, Waiver and Consent dated October 29, 1999 (as so amended, the "**Security Agreement**").

D. Pursuant to the Security Agreement, Grantor is required to execute and deliver to the Trustee this Restated Patent Security Agreement.

E. The Grantor, the Trustee and Congress Financial Corporation (Florida) have entered into an Intercreditor Agreement, a copy of which is attached as Exhibit A to this Restated Patent Security Agreement;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby agrees as follows:


1. GRANT OF SECURITY INTEREST IN PATENT COLLATERAL. Grantor hereby grants to the Trustee, for the benefit of the holders of the 2003 Notes and the holders of the 2004 Notes, continuing security interests (with the relative priorities as provided in the Intercreditor Agreement) in all of Grantor's right, title and interest in, to and under the following, whether presenting existing or hereafter created or acquired (collectively, the "Patent Collateral"):

- (a) all of the Patents and Patent Licenses referred to on Schedule I hereto;
- (b) all reissues, continuations or extensions of the foregoing; and
- (c) all products and proceeds of the foregoing, including, without limitation, any claim by Grantor against third parties for past, present or future infringement or dilution of any Patent or Patent licensed under any Patent License.

2. SECURITY AGREEMENT. The security interests granted pursuant to this Patent Security Agreement are granted in conjunction with the security interests granted to the Trustee pursuant to the Security Agreement. Grantor hereby acknowledges and affirms that the rights and remedies of the Trustee with respect to the security interest in the Patent Collateral made and granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

IN WITNESS WHEREOF, Grantor has caused this Restated Patent Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

MOLTECH CORPORATION

By: 

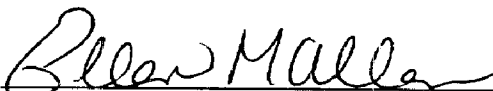
Accepted and Acknowledged by:
Meltzer, Lippe, Goldstein & Schlissel, P.C., as Trustee

By: 

ACKNOWLEDGEMENT OF GRANTOR

STATE OF New York)
COUNTY OF New York) ss.

On this 1st day of November, 1999 before me personally appeared ANTHONY GREGA proved to me on the basis of satisfactory evidence to be the person who executed the foregoing instrument on behalf of MOLTECH CORP., who being by me duly sworn did depose and say that he is an authorized officer of said corporation, that the said instrument was signed on behalf of the said corporation as authorized by its Board of Directors and that he acknowledged said instrument to be the free act and deed of said corporation.


Notary Public

ELLEN M. ALLEN
Notary Public, State of New York
No. 01AL5057123
Qualified in Suffolk County 2000
Commission Expires March 18, 2000

PATENT

REEL: 010470 FRAME: 0820

SCHEDULE I

RIGHTS IN INTELLECTUAL PROPERTY

TRADEMARKS, TRADE NAMES, ETC.

Unregistered: "MOLTECH," "OSP," "LI-S," "Lithium-Sulfur," "Powering the Electronic Future"

PATENTS, PATENT APPLICATIONS, PROVISIONAL APPLICATIONS AND FOREIGN APPLICATIONS **OCTOBER 21, 1999**

U.S. PATENT REGISTRATIONS

Patent Reg. Number	ISSUE DATE
5,128,587	7/7/92
5,264,092	11/23/93
5,460,905	10/24/95
5,462,566	10/31/95
5,538,812	7/23/96
5,529,860	6/25/96
5,580,527	12/3/96
5,601,947	2/11/97
5,648,187	7/15/97
5,690,702	11/25/97
5,919,996	7/6/99
5,961,672	10/5/99
5,962,171	10/5/99

Pending U.S. Patent Applications
and PROVISIONAL APPLICATIONS

APPLICATION NO.	FILING DATE
09/293,498	4/15/99
09/033,218	3/02/98
09/257,849	2/25/99
09/336,247	6/17/99
08/994,708	12/19/97
08/995,090	12/19/97
08/995,089	12/19/97
09/215,112	12/17/98
08/995,122	12/19/97

09/172,720	10/13/98
08/994,343	12/19/97
09/079,995	5/15/98
09/093,528	6/8/98
09/093,527	6/08/98
09/205,873	12/4/98
09/215,030	12/17/98
09/215,029	12/17/98
09/399,967	9/21/99
09/215,057	12/17/98
09/215,115	12/17/98
09/271,625	3/17/99
60/132,348	5/4/99
60/132,393	5/4/99
60/139,031	6/9/99
60/151,275	8/27/99

Foreign Filings

APPLICATION NO.	FILING DATE	U.S. PRIORITY APPL. NO.
EP 94/304351.3	7/12/94	
JP 6-184109	7/12/94	
EP 96/910529.5	24/9/97	
JP 08-528648	3/15/96	
JP 9-500549	5/2/96	
EP 96915730.4	5/2/96	
KR 97-709157	5/2/96	
CA 2,221,603	5/2/96	
EP 96920559.0	5/24/96	
JP 9-500816	5/24/96	
India 1015/cal/96	6/3/96	
India 1127/Cal/97	6/12/97	
EP 97928651.5	11/01/98	
JP 9-542782	11/01/98	
EP 97929943.5	12/24/98	
JP 10-501807	12/14/98	
PCT/US98/13877	7/02/98	08/889,202
PCT/US98/26126	12/09/98	08/994,708
PCT/US98/26160	12/09/98	08/995,090
PCT/US98/26913	12/17/98	08/995,089
PCT/US98/26124	12/09/98	08/995,122
PCT/US98/21663	10/13/98	09/172,720
PCT/US98/26197	12/09/98	08/994,343

PCT/US99/10388	5/11/99	09/079,995
PCT/US99/12167	5/28/99	09/093,528
PCT/US99/12086	5/28/99	09/093,527
PCT/US99/17347	7/29/99	09/205,873

PATENT LICENSE AGREEMENTS

NAME OF AGREEMENT	PARTIES	DATE OF AGREEMENT
License Agreement	Polytechnic University and Moltech Corporation	3/1/91 and 9/26/97
License Agreement	Battelle Memorial Institute and Moltech Corporation	5/30/95 and Amendment 6/22/98
License Agreement	Arizona Board of Regents and Moltech Corporation	10/31/96 and Amendment 5/30/97
License Agreement	Arizona Board of Regents and Moltech Corporation	12/10/97
License Agreement	Radiometer and Moltech Corporation	11/20/92

OTHER AGREEMENTS WITH RESPECT TO INTELLECTUAL PROPERTY

1. Development Agreement, dated December 21, 1994, between the Company and AB Electrolux.
2. Development Agreement, dated September 24, 1994, between the Company and Ericsson Mobile Communications AB.
3. Development Agreement, dated April 12, 1995, between the Company and Atlas Copco Elektrowerkzeuge GmbH.
4. Right of first refusal to license, pursuant to EPS Purchase Agreement.
5. Liens and licenses to be granted to Congress in connection with Congress Debt.

INTERCREDITOR AGREEMENT

THIS INTERCREDITOR AGREEMENT ("Intercreditor Agreement") dated as of November 1, 1999 is by and between Congress Financial Corporation (Florida), a Florida corporation ("Congress," as hereinafter further defined) and Meltzer, Lippe, Goldstein & Schlissel, P.C., in its capacity as trustee and agent for the holders of the Series E Notes (as defined below) and the 1999 Notes (as defined below), in such capacity being referred to herein as the "Trustee" (as hereinafter further defined).

W I T N E S S E T H:

WHEREAS, Moltech Corporation, a Delaware corporation ("Debtor," as hereinafter further defined) has issued its 7% Promissory Notes due February 28, 2003 in the aggregate principal amount of \$15,000,000 (collectively, the "Series E Notes," as hereinafter further defined) pursuant to the Securities Purchase and Investor Rights Agreement, dated as of February 28, 1998 (the "February 1998 Securities Purchase Agreement") and the Securities Purchase and Investor Rights Agreement, dated as of April 29, 1999 (the "April 1999 Securities Purchase Agreement" and together with the February 1998 Securities Purchase Agreement, the "Series E Note Purchase Agreements," as hereinafter further defined);

WHEREAS, Debtor has issued certain of its 7% Subordinated Convertible Promissory Notes due September 30, 2004 and may after the date hereof issue more such notes through September 30, 2000 up to a maximum aggregate original principal amount of \$20,000,000 for all such notes (collectively, the "1999 Notes," as hereinafter further defined) pursuant to the Securities Purchase and Investor Rights Agreement, dated as of October 29, 1999 and similar agreements with respect to future issuances of such notes (collectively, the "1999 Note Purchase Agreements," as hereinafter further defined), and a portion of the proceeds of such notes have been used to repay all of the indebtedness of Debtor evidenced by or arising under the Bridge Notes due September 30, 1999, dated July 29, 1999, issued by Debtor and the Bridge Note due March 31, 2000, dated September 27, 1999, issued by Debtor payable to S-7 Associates, LLC, all of which Bridge Notes have been paid and satisfied in full;

WHEREAS, Debtor has granted a security interest in and lien upon the Intellectual Property Collateral (as hereinafter defined) to the Trustee acting on behalf and for the benefit of the holders of the Series E Notes and the holders of the 1999 Notes to secure the obligations of Debtor evidenced by the Series E Notes and the 1999 Notes;

WHEREAS, Congress has entered or is about to enter into financing arrangements with Moltech Power Systems, Inc., a Delaware corporation ("MPS," as hereinafter further defined), pursuant to which Congress may, upon certain terms and conditions, make loans or provide other financial accommodations to MPS secured by substantially all of the assets and properties of MPS;

WHEREAS, in connection with such financing arrangements, Debtor has absolutely and unconditionally guaranteed the payment of all of the obligations, liabilities and indebtedness of MPS to Congress and Debtor's obligations pursuant to such guarantee are secured by substantially all of the assets and properties of Debtor, including the Intellectual Property Collateral; and

WHEREAS, Creditors (as defined below) desire to enter into this Intercreditor Agreement to (i) confirm the relative priority of the security interests of each Creditor in the assets and properties of Debtor and (ii) provide for the orderly sharing among Creditors, in accordance with such priorities, of proceeds of such assets and properties upon any foreclosure thereon or other disposition thereof.

NOW THEREFORE, in consideration of the mutual benefits accruing to Creditors hereunder and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. DEFINITIONS

As used above and in this Intercreditor Agreement, the following terms shall have the meanings ascribed to them below:

1.1. "Agreements" shall mean, collectively, the Congress Agreements, the Series E Note Agreements and the 1999 Note Agreements.

1.2. "Bridge Notes" shall mean, collectively, the Bridge Notes due September 30, 1999 and March 1, 2000 in the original aggregate principal amount of \$10,000,150 issued by Debtor.

1.3. "Congress" shall mean Congress Financial Corporation (Florida), a Florida corporation, and its successors and assigns (including any other lender or group of lenders that at any time refinances, replaces or otherwise succeeds to all or any portion of the Congress Debt or is otherwise party to the Congress Agreements).

1.4. "Congress Agreements" shall mean, collectively, the Loan and Security Agreement, dated of even date herewith, by and between Congress and MPS, the Guarantee, dated of even date herewith, by Debtor in favor of Congress and all agreements, documents and instruments at any time executed and/or delivered by Debtor, MPS or any other person in connection therewith or related thereto, as all of the foregoing now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.5. "Congress Debt" shall mean any and all obligations, liabilities and indebtedness owing by Debtor to Congress and/or its affiliates or participants, including principal, interest, charges, fees, premiums, indemnities and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, whether arising under the Congress Agreements or otherwise, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the Congress Agreements or after the commencement of any case

with respect to Debtor or MPS under the U.S. Bankruptcy Code or any similar statute (and including, without limitation, any principal, interest, fees, costs, expenses and other amounts which would accrue and become due but for the commencement of such case or proceeding and, whether or not such amounts are allowed or allowable in whole or in part in any such case or similar proceeding), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, secured or unsecured, and whether arising directly or howsoever acquired by Congress.

1.6. "Congress Priority Debt" shall mean, at any time, the portion of the Congress Debt equal to: (a) the aggregate amount of all loans, dividends, distributions, management fees, or other payments (however characterized or described) made by MPS or any subsidiary of MPS or any other subsidiary of Debtor to or for the benefit of Debtor after the date hereof in excess of \$5,000,000 minus (b) the aggregate amount of all loans, capital contributions, repayments of debt or other payments (however characterized or described) by Debtor paid to MPS in cash or other immediately available funds after the date hereof (expressly excluding the aggregate amount of all capital contributions and other payments made by Debtor to or for the benefit of MPS or any subsidiary of MPS or any other subsidiary of Debtor on or before the date hereof). The Congress Priority Debt may consist of any Congress Debt however arising and is limited only in amount, not by how it is evidenced or arose.

1.7. "Creditors" shall mean, collectively, Congress, the Series E Noteholders, the 1999 Noteholders and the Trustee and their respective successors and assigns; sometimes being referred to herein individually as a "Creditor".

1.8. "Debtor" shall mean Moltech Corporation, a Delaware corporation and its successors and assigns, including, without limitation, a receiver, trustee or debtor-in-possession on behalf of such person or on behalf of any such successor or assign.

1.9. "Intellectual Property Collateral" shall mean the patents, patent applications, trademarks, trademark applications, service marks, service mark applications, trade names, copyrights, manufacturing processes, formulae, trade secrets and know-how owned by Debtor as of the date hereof and listed on Schedule 1 hereto, and including, without limitation, all proceeds of such property.

1.10. "Lien" shall mean any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, security interest, encumbrance (including, but not limited to, easements, rights of way and the like), lien (statutory or other), security agreement or transfer intended as security, including without limitation, any conditional sale or other title retention agreement, the interest of a lessor under a capital lease or any financing lease having substantially the same economic effect as any of the foregoing.

1.11. "MPS" shall mean Moltech Power Systems, Inc., a Delaware corporation and its successors and assigns, including, without limitation, a receiver, trustee or debtor-in-possession on behalf of such person or on behalf of any such successor and assign.

1.12. "1999 Note Agreements" shall mean, collectively, the following (as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced): (a) the 1999 Notes; (b) the 1999 Note Purchase Agreements; (c) the Noteholder Security Agreement; and (d) all agreements, documents and instruments at any time executed and/or delivered by Debtor or any other person in connection with or related to any of the foregoing.

1.13. "1999 Note Debt" shall mean any and all obligations, liabilities and indebtedness of Debtor evidenced by or arising under the 1999 Notes, including principal, interest, charges, fees, premiums, indemnities or expenses, whether now existing or hereafter arising; provided, that, in no event shall the principal amount of the 1999 Note Debt exceed \$20,000,000, less all payments, repurchases, redemptions or cancellations thereof, whether optional or mandatory, in respect of such indebtedness.

1.14. "1999 Noteholders" shall mean, collectively, the persons listed on Schedule 2 hereto and any other person at any time after the date hereof to whom any 1999 Notes are payable or who is otherwise the owner or holder of any 1999 Notes, and their respective successors and assigns; sometimes being referred to herein individually as a "1999 Noteholder".

1.15. "1999 Note Purchase Agreements" shall mean, collectively, the following (as the same now exist or may hereafter exist or be amended, modified, supplemented, extended, renewed, restated or replaced): (a) the Securities Purchase and Investor Rights Agreement, dated as of October 29, 1999 by and among Debtor and certain of the 1999 Noteholders and (b) any agreement after the date hereof by Debtor with, to or in favor of any 1999 Noteholder providing for the purchase by such 1999 Noteholder of any 1999 Note.

1.16. "1999 Notes" shall mean, collectively, 7% Subordinated Convertible Promissory Notes due September 30, 2004 at any time issued by Debtor, as the same may now or hereafter exist or may be amended, modified, supplemented, extended, renewed, restated or replaced.

1.17. "Noteholder Agreements" shall mean, collectively, the 1999 Note Agreements and the Series E Note Agreements.

1.18. "Noteholders" shall mean, collectively, the Series E Noteholders and the 1999 Noteholders; each Series E Noteholder and 1999 Noteholder sometimes being referred to herein individually as a "Noteholder."

1.19. "Noteholder Security Agreement" shall mean the Security Agreement, dated as of February 28, 1999, by Debtor in favor of the Trustee, as amended pursuant to the Omnibus Amendment Agreement, dated April 29, 1999, the Second Amendment to Security Agreement and Agreement between Lending Groups, dated July 27, 1999, and the Amendment, Waiver and Consent among Debtor, the "Founders" signatory thereto, the persons listed on Schedules 1 and 2 thereto who execute a counterpart signature page thereof, and any person who becomes a holder of 1999 Notes, as such Security Agreement now exists and may be further amended, modified, supplemented, extended, renewed, restated or replaced.

1.20. "Person" or "person" shall mean any individual, sole proprietorship, partnership, corporation (including, without limitation, any corporation which elects subchapter S status under the Internal Revenue Code of 1986, as amended), limited liability company, limited liability partnership, business trust, unincorporated association, joint stock company, trust, joint venture, or other entity or any government or any agency or instrumentality or political subdivision thereof.

1.21. "Secured Party" shall mean each of Congress and the Trustee (as each such terms are defined herein).

1.22. "Series E Note Agreements" shall mean, collectively, the following (as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced) (a) the Series E Notes; (b) the Series E Note Purchase Agreements; (c) the Amendment, Waiver and Consent, dated on or about the date hereof, by and among the Trustee, the Series E Noteholders and certain other parties; and (d) all agreements, documents and instruments at any time executed and/or delivered by Debtor or any other person in connection with or related to any of the foregoing.

1.23. "Series E Note Debt" shall mean any and all obligations, liabilities and indebtedness of Debtor evidenced by or arising under the Series E Notes, including principal, interest, charges, fees, premiums, indemnities or expenses, whether now existing or hereafter arising, provided, that, in no event shall the principal amount of the Series E Debt exceed \$15,000,000, less all payments, repurchases, redemptions or cancellations thereof, whether optional or mandatory, in respect of such indebtedness.

1.24. "Series E Noteholders" shall mean, collectively, the persons listed on Schedule 3 hereto and any other person at any time after the date hereof to whom any Series E Note is payable or who is otherwise the owner or holder of any Series E Note, and their respective successors and assigns; sometimes being referred to herein individually as a "Series E Noteholder".

1.25. "Series E Note Purchase Agreements" shall mean, collectively, the following (as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced): (a) the Securities Purchase and Investor Rights Agreement, dated as of February 28, 1998, by and among Debtor and certain of the Series E Noteholders pursuant to which Debtor issued \$12,750,000 of Series E Notes and (b) the Securities Purchase and Investor Rights Agreement, dated as of April 29, 1999, by and among Debtor and certain of the Series E Noteholders pursuant to which Debtor issued \$2,250,000 of Series E Notes.

1.26. "Series E Notes" shall mean, collectively, the 7% Promissory Notes due February 28, 2003 issued by Debtor, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.27. "Trustee" shall mean Meltzer, Lippe, Goldstein & Schlissel, P.C., a New York professional corporation, in its capacity as trustee and agent on behalf of the Series E

Noteholders and the 1999 Noteholders pursuant to the terms of the Noteholder Security Agreement, and its successors and assigns, and including any replacement, successor or additional trustee or agent acting for or on behalf of such parties.

1.28. All terms defined in the Uniform Commercial Code as in effect in the State of Florida, unless otherwise defined herein shall have the meanings set forth therein. All references to any term in the plural shall include the singular and all references to any term in the singular shall include the plural.

2. SECURITY INTERESTS; PRIORITIES; REMEDIES

2.1. Each Creditor hereby acknowledges that Congress and the Trustee have each been granted a Lien upon the Intellectual Property Collateral. The Trustee, and to the best of the knowledge of the Trustee, the Noteholders have not been granted and do not have a Lien on any assets or properties of Debtor, MPS or any of their respective subsidiaries, other than the Intellectual Property Collateral. The Trustee and each Noteholder hereby acknowledges that Congress has been or may be granted a Lien upon all assets and properties of Debtor, MPS and their respective subsidiaries. All indebtedness of Debtor to any of such persons existing prior to the date hereof (including indebtedness evidenced by or arising under the Bridge Notes), other than the Series E Debt and the 1999 Note Debt and amounts which may be owing as compensation for services rendered or other fees, has, to the best of the knowledge of the Trustee, been repaid and satisfied in full.

2.2. Notwithstanding the order or time of attachment, or the order, time or manner of perfection, or the order or time of filing or recordation of any document or instrument, or other method of perfecting a security interest in favor of each Creditor in any Intellectual Property Collateral, and notwithstanding any conflicting terms or conditions which may be contained in any of the Agreements, subject to Section 2.3 below, the following lien priorities shall apply in defining the respective lien priorities of each Creditor in the Intellectual Property Collateral:

- (a) First: the Liens upon the Intellectual Property Collateral of Congress to the full extent of the Congress Priority Debt;
- (b) Second: the Liens upon the Intellectual Property Collateral of the Trustee to the full extent of the 1999 Note Debt;
- (c) Third: the Liens upon the Intellectual Property Collateral of the Trustee to the full extent of the Series E Note Debt; and
- (d) Fourth: the Liens upon the Intellectual Property Collateral of Congress to the full extent of all Congress Debt other than the Congress Priority Debt.

2.3. The lien priorities set forth in Section 2.2 shall not be altered or otherwise affected by any amendment, modification, supplement, extension, renewal, restatement or refinancing of the Congress Debt, the Series E Note Debt or the 1999 Note Debt, or by any action or inaction

which any Creditor may take or fail to take in respect of the Intellectual Property Collateral or any other collateral.

2.4. Each Creditor shall be solely responsible for perfecting and maintaining the perfection of its Lien in and to each item constituting the Intellectual Property Collateral in which such Creditor has been granted a Lien. The foregoing provisions of this Agreement are intended solely to govern the respective lien priorities as between the Creditors and shall not impose on any Creditor holding a senior Lien any obligations in respect of the disposition of proceeds of foreclosure on any Intellectual Property Collateral which would conflict with prior perfected claims therein in favor of any other person or any order or decree of any court or other governmental authority or any applicable law. Each Creditor agrees that it will not contest the validity, perfection, priority or enforceability of the Liens upon the Intellectual Property Collateral of the Trustee or Congress.

2.5. Notwithstanding anything to the contrary contained in any of the Agreements, but subject to Section 2.7 and Section 2.8 below, only the Secured Party with the senior Lien in the Collateral shall have the right to restrict or permit, or approve or disapprove, the sale, transfer or other disposition of Intellectual Property Collateral. The Secured Party with the junior Lien on the Collateral, immediately upon the request of the Secured Party with the senior Lien, shall release or otherwise terminate its Liens on the Intellectual Property Collateral to the extent such Intellectual Property Collateral is sold or otherwise disposed of either by the Secured Party with the senior Lien, its agents, or Debtor with the consent of the Secured Party with the senior Lien and the Secured Party with the junior Lien shall (and the Trustee has been irrevocably authorized by the Noteholders to) immediately deliver such release documents as the Secured Party with the senior Lien may require in connection therewith, provided, that such release by the Secured Party with the junior Lien shall not extend to or otherwise affect any of the rights, if any, of the Secured Party with the junior Lien to the proceeds from any such sale or other disposition of Intellectual Property Collateral.

2.6. Notwithstanding any rights or remedies available to a Creditor under any of the Agreements, applicable law or otherwise, except as otherwise provided in Section 2.7 below, the Secured Party with a junior Lien on the Intellectual Property Collateral shall not, directly or indirectly, seek to foreclose or realize upon (judicially or non-judicially) any Lien on any Intellectual Property Collateral or assert any claims or interests therein, or in the case of the Trustee (but not Congress) commence any action or proceeding against Debtor or its properties under the U.S. Bankruptcy Code or any state insolvency law or similar present or future statute, law or regulation or any proceedings for voluntary liquidation, dissolution or other winding up of Debtor's business, or the appointment of any trustee, receiver or liquidator for Debtor or any part of its properties or any assignment for the benefit of creditors or any marshalling of assets of Debtor. The foregoing shall not in any way limit or impair the right of the Secured Party with a junior Lien from bidding for and purchasing Intellectual Property Collateral at any private or judicial foreclosure upon such Intellectual Property Collateral. Nothing contained herein shall be construed to limit or otherwise affect the rights of Congress with respect to any other assets or properties of Debtor or MPS, other than the Intellectual Property Collateral, and as to the Intellectual Property Collateral only to the extent that Congress does not then have a senior Lien

therein with priority over the Liens of the Trustee under the terms of Section 2.2 of this Intercreditor Agreement.

2.7. Notwithstanding anything to the contrary contained in Section 2.5 or Section 2.6 above, commencing one hundred twenty (120) days after the receipt by the Secured Party with the senior Lien of written notice from the Secured Party with the junior Lien of an event of default under the Agreements of the Secured Party with the junior Lien, the Secured Party with the junior Lien with respect to the Intellectual Property Collateral shall have the right to take action to enforce its Liens on any of the Intellectual Property Collateral or assert any claims or interests therein, subject at all times to the provisions of Section 2.2 of this Intercreditor Agreement. In the event that the Secured Party with the junior Lien shall take such action with respect to its Liens, the Secured Party with the senior Lien shall, immediately upon the request of the Secured Party with the junior Lien, release or otherwise terminate its senior Liens on the Collateral to the extent such Collateral is sold or otherwise disposed of by the Secured Party with the junior Lien or by Debtor or its agents with the consent of the Secured Party with the junior Lien; provided, that, any proceeds from such sale or other disposition shall be distributed between Congress and the Trustee in accordance with the lien priorities set forth in Section 2.2 hereof (except as may otherwise be required under any applicable court order or order of any other governmental authority or otherwise under applicable law). Any such release by the Secured Party with the senior Lien shall not be construed to extend to or otherwise affect any of the rights of such Secured Party to the proceeds from any sale or other disposition of any Intellectual Property Collateral. Nothing contained in this Intercreditor Agreement shall impose on the Secured Party with the senior Lien any obligations in respect of the disposition of proceeds of foreclosure or other disposition on any Intellectual Property Collateral which would conflict with prior perfected security interests therein in favor of any other person other than the Trustee or Congress or any order or decree of any court or other governmental authority or any applicable law.

2.8. In the event that the Secured Party with the senior Lien on the Intellectual Property Collateral is Congress, Congress shall not seek to foreclose or realize upon any Lien on any Intellectual Property Collateral for a period of sixty (60) days after the date of any event of default under the Congress Agreements.

2.9. Each Creditor shall give to the other Creditor concurrently with the giving thereof to Debtor, (a) a copy of any written notice by such Creditor of either a default or an event of default under its Agreements with Debtor, or written notice of demand of payment from Debtor, and (b) any written notice sent by a Creditor to Debtor at any time an event of default under such Creditor's Agreements with Debtor exists stating such Creditor's intention to exercise any of its enforcement rights or remedies, including written notice pertaining to any foreclosure on any of the Collateral or other judicial or non-judicial remedy in respect thereof, and any legal process served or filed in connection therewith; provided, that, the failure of any party to give notice as required hereby shall not affect the relative priorities of Creditors' respective Liens as provided herein or the validity or effectiveness of any such notice as against Debtor. Debtor hereby authorizes and consents to each of Creditors sending any such notices to the other Creditor or providing any other information with respect to Debtor to the other Creditors.

3. COVENANTS, REPRESENTATIONS AND WARRANTIES

3.1. Additional Covenants. Trustee, each Noteholder and Debtor (in each case severally, and not jointly) agree in favor of Congress that:

(a) Trustee and Debtor shall not amend, modify, alter or change in any material respect the terms of any of the Noteholder Agreements or any other arrangements related to either the Series E Note Debt or the 1999 Note Debt;

(b) the Trustee shall not sell, assign, pledge, encumber or otherwise dispose of any of its rights in or to any of the Intellectual Property Collateral;

(c) Trustee and Debtor shall execute and deliver to Congress such additional agreements, documents and instruments and take such further actions as may be necessary or desirable in the opinion of Congress to effectuate the provisions and purposes of this Intercreditor Agreement.

3.2. Additional Representations and Warranties.

(a) The Trustee represents and warrants to Congress that:

(i) the execution, delivery and performance of this Intercreditor Agreement by the Trustee is within its powers in its capacity as agent and trustee for each Noteholder, has been duly authorized by each Noteholder, and does not contravene any law, any provision of any of the Noteholder Agreements or any other agreement to which Trustee is a party or by which it is bound;

(ii) the Trustee has been duly appointed and constituted as agent to act for and on behalf of each Noteholder and is in such position as of the date hereof;

(iii) the Trustee, and to the best of the Trustee's knowledge, the Noteholders, have not been granted and do not have any Liens upon the assets and properties of Debtor or MPS pursuant to the Noteholder Agreements, except to the extent of the Liens granted by Debtor to Trustee as trustee and agent on behalf and for the benefit of the Noteholders;

(iv) this Intercreditor Agreement constitutes the legal, valid and binding agreement of each Noteholder acting by and through the Trustee as its agent and is enforceable in accordance with its terms and shall be binding on each Noteholder acting by and through the Trustee as its agent;

(v) as of the date hereof, to the best of the Trustee's knowledge, the total principal amount of the Series E Note Debt is \$15,000,000;

(vi) as of the date hereof, to the best of the Trustee's knowledge, the total principal amount of the 1999 Note Debt is not less than \$13,000,000;

(vii) as of the date hereof, to the best of the Trustee's knowledge, all of the indebtedness evidenced by or arising under the Bridge Notes has been satisfied;

(viii) as of the date hereof, the Trustee has received no notice of, and has no knowledge of, any default or event of default, or event which with notice or passage of time or both would constitute an event of default exists or has occurred under the Series E Note Agreements or the 1999 Note Agreements.

(b) Each Noteholder severally as to itself (and not jointly) represents and warrants to Congress that:

(i) the execution, delivery and performance of this Intercreditor Agreement by or on behalf of such Noteholder (whether pursuant to the Amendment, Waiver and Consent dated of even date herewith, or otherwise) has been duly authorized by each Noteholder, and does not contravene any law, any provision of any of the Noteholder Agreements or any other agreement to which such Noteholder is a party or by which it is bound;

(ii) such Noteholder has not been granted and does not have any Liens upon the assets and properties of Borrower pursuant to the Noteholder Agreements, except to the extent of the Liens granted by Debtor to Trustee as trustee and agent on behalf and for the benefit of such Noteholder;

(iii) this Intercreditor Agreement constitutes the legal, valid and binding agreement of such Noteholder, enforceable in accordance with its terms and shall be binding on it;

(iv) as of the date hereof, the only secured indebtedness owing by Debtor to such Noteholder is evidenced by the Series E Notes or the 1999 Notes, as the case may be and amounts which may be owing as compensation for services rendered or other fees;

(v) as of the date hereof, such Noteholder has no notice of, and no knowledge of any default or event of default, or event which with notice or passage of time or both would constitute an event of default exists or has occurred under the Series E Note Agreements or the 1999 Note Agreements to which it is a party.

(c) Congress hereby represents and warrants to Trustee that:

(i) the execution, delivery and performance of this Intercreditor Agreement by Congress is within its powers, has been duly authorized by it and does not contravene any law, any provision of the Congress Agreements or any other agreement to which Congress is a party or by which it is bound; and

(ii) this Intercreditor Agreement constitutes the legal, valid and binding obligation of Congress, enforceable in accordance with its terms and shall be binding on Congress.

3.3. Waivers. Notice of acceptance hereof, the making of loans, advances and extensions of credit or other financial accommodations to, and the incurring of any expenses by or in respect of, Debtor or MPS by Congress, and presentment, demand, protest, notice of protest, notice of nonpayment or default and all other notices to which the Trustee, the Noteholders and Debtor are or may be entitled are hereby waived (except as expressly provided for herein or as to Debtor, in the Congress Agreements). The Trustee and the Noteholders also each waive notice of, and hereby consents to, (a) any amendment, modification, supplement, renewal, restatement or extension of time of payment of or increase or decrease in the amount of any of the Congress Debt or the interest rate or fees payable under the Congress Agreements or any collateral securing the Congress Debt, (b) the taking, exchange, surrender and releasing of any collateral or guarantees now or at any time held by or available to Congress for the Congress Debt or any other person at any time liable for or in respect of the Congress Debt, (c) the exercise of, or refraining from the exercise of any rights against Debtor or any other obligor or any collateral securing the Congress Debt, (d) the settlement, compromise or release of, or the waiver of any default with respect to, any of the Congress Debt, and/or (e) Congress' election, in any proceeding instituted under the U.S. Bankruptcy Code of the application of Section 1111(b)(2) of the U.S. Bankruptcy Code. Any of the foregoing shall not, in any manner, affect the terms hereof or impair the obligations of Trustee or any Noteholder hereunder. All of the Congress Debt shall be deemed to have been made or incurred in reliance upon this Intercreditor Agreement.

3.4. Subrogation; Marshalling. The Trustee and the Noteholders shall not be subrogated to, or be entitled to any assignment of any Congress Debt or of any collateral or guarantees now or at any time held by or available to Congress for the Congress Debt or evidence of any thereof. The Trustee and the Noteholders each hereby waives any and all rights to have any collateral or any part thereof granted to Congress marshalled upon any foreclosure or other disposition of such collateral by Congress or by Debtor or MPS with the consent of Congress.

3.5. Notice and Opportunity to Cure. Congress shall have the right, but not any obligation, to cure for the account of Debtor any default or event of default by Debtor under any of the Noteholder Agreements at any time during the sixty-day (60) period commencing on the date of receipt by Congress of a written notice from Trustee of the declaration by Trustee or any Noteholder of such default or event of default and the written demand by Trustee or any Noteholder for the immediate repayment of all of the Series E Note Debt and/or the 1999 Note Debt, as the case may be. In no event shall Congress by virtue of the payment of any amounts or performance of any obligation required to be paid or performed by Debtor or any other person be deemed to have assumed any obligation of Debtor or such other person to the Trustee, any Noteholder or any other person.

3.6. Right to Use Intellectual Property Collateral and Consent to Collateral Assignment of Licensee Rights.

(a) The Trustee and the Noteholders each hereby acknowledges and agrees that Debtor may on or after the date hereof grant to MPS a license to manufacture, use, sell and distribute certain products using the Intellectual Property Collateral. In the event that Debtor

shall grant such a license to MPS, the Trustee and the Noteholders each acknowledges and consents to the Lien upon, and the collateral assignment to, Congress with respect to any such rights of MPS with respect to Intellectual Property Collateral and consents to the acquisition by Congress or its designee, at Congress' option, of the absolute ownership of the interest of MPS under such license arrangements and agrees that if Congress elects to acquire the interest of MPS therein, Congress or its designee may assign or sublicense the license arrangements for any lawful purpose and such assignment or sublicense with respect to the license arrangements shall release and relieve Congress of all obligations thereunder. Any rights of the Trustee and the Noteholders shall be subject and subordinate to any rights of MPS pursuant to such license arrangements (and the rights of Congress, as secured party with respect thereto) such that in the event of any sale or other disposition by Trustee of the Intellectual Property Collateral, the purchaser or transferee thereof shall acquire such assets subject to the rights of MPS as licensee (or Congress as secured party with respect thereto).

(b) In addition, and without limitation of the foregoing, the Noteholders acknowledge and agree that Congress may have a royalty-free, non-exclusive license to use the Intellectual Property Collateral in connection with and for purposes of facilitating the sale or disposition by Congress of, or realization by Congress upon, any of the assets of MPS at any time subject to the Lien of Congress using or embodying any of the Intellectual Property Collateral. The foregoing use granted to Congress is independent of any license arrangements of Debtor with MPS and shall continue until such time as Congress has realized upon all of such assets subject to its Lien. The use by Congress of the Intellectual Property Collateral as provided herein shall not constitute an assumption by Congress of any obligation of MPS or any other person arising under any licensing arrangements and in no event will Congress be liable for such obligations of MPS or subject to any claims or defenses against MPS with respect to the use of the Intellectual Property Collateral.

4. MISCELLANEOUS

4.1. Amendments. Any waiver, permit, consent or approval by any Creditor of or under any provision, condition or covenant to this Intercreditor Agreement must be in writing and shall be effective only to the extent it is set forth in writing and as to the specific facts or circumstances covered thereby. Any amendment of this Intercreditor Agreement must be in writing and signed by each of the parties to be bound thereby.

4.2. Successors and Assigns.

(a) This Intercreditor Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of each Creditor and its respective successors, participants and assigns. Notwithstanding that each Noteholder may not execute and deliver this Intercreditor Agreement, by acceptance of any 1999 Note or Series E Note, such Noteholder shall be bound hereby as if such Noteholder had executed and delivered this Intercreditor Agreement and the terms set forth herein are incorporated into and shall be deemed a part of each of the 1999 Notes and the Series E Notes. Each Creditor acknowledges that

Congress is relying upon the binding nature of this Intercreditor Agreement upon each of the Trustee and the Noteholders.

(b) Congress reserves the right to grant participations in, or otherwise sell, assign, transfer or negotiate all or any part of, or any interest in, the Congress Debt and the collateral securing same (including, without limitation, the Intellectual Property Collateral); provided, that, the Noteholders shall not be obligated to give any notices to or otherwise in any manner deal directly with any participant in the Congress Debt and no participant shall be entitled to any rights or benefits under this Intercreditor Agreement except through Congress. In connection with any participation or other transfer or assignment, Congress (i) may disclose to such assignee, participant or other transferee or assignee all documents and information which Congress now or hereafter may have relating to the Senior Debt or the collateral securing the Congress Debt (including, without limitation, the Intellectual Property Collateral) and (ii) shall disclose to such participant or other transferee or assignee the existence and terms and conditions of this Intercreditor Agreement.

(c) In connection with any assignment or transfer of any or all of the Congress Debt, or any or all rights of Congress in the property of Debtor (other than pursuant to a participation), Trustee agrees (and has been irrevocably authorized) to execute and deliver for itself and the Noteholders an agreement containing terms substantially identical to those contained herein in favor of any such assignee or transferee and, in addition, will execute and deliver an agreement containing terms substantially identical to those contained herein in favor of any third person who succeeds to or replaces or refinances any or all of Congress' financing of MPS or Debtor, whether such successor or replacement financing occurs by transfer, assignment or any other means.

4.3. Insolvency. This Intercreditor Agreement shall be applicable both before and after the filing of any petition by or against Debtor under the U.S. Bankruptcy Code and all converted or succeeding cases in respect thereof, and all references herein to Debtor shall be deemed to apply to a trustee for Debtor and Debtor as debtor-in-possession. The relative rights of Congress, Trustee, the Series E Noteholder and the 1999 Noteholders to repayment of the Congress Debt, the Series E Note Debt and the 1999 Note Debt, respectively, and in or to any distributions from or in respect of Debtor or any Intellectual Property Collateral, shall continue after the filing thereof on the same basis as prior to the date of the petition, subject to any court order approving the financing of, or use of cash collateral by, Debtor as debtor-in-possession.

4.4. Bankruptcy Financing. If Debtor shall become subject to a proceeding under the U.S. Bankruptcy Code and if Congress desires to permit the use of cash collateral or to provide financing to MPS or Debtor under either Section 363 or Section 364 of the U.S. Bankruptcy Code, Trustee agrees as follows: (a) adequate notice to Trustee and Noteholders shall have been provided for such financing or use of cash collateral if Trustee receives notice two (2) business days prior to the entry of the order approving such financing or use of cash collateral and (b) no objection will be raised by Trustee or any Noteholder to any such financing or use of cash collateral on the ground of a failure to provide "adequate protection" for Trustee's or any Noteholder's Liens on the Intellectual Property Collateral or any other grounds, provided Trustee

retain Liens on the post-petition Intellectual Property Collateral with the same priority as existed prior to the commencement of the proceeding under the U.S. Bankruptcy Code. For purposes of this Section, notice of a proposed financing or use of cash collateral shall be deemed given when given, in the manner prescribed by Section 4.5 hereof, to Trustee.

4.5. Notices. All notices, requests and demands to or upon the respective parties hereto shall be in writing and shall be deemed duly given, made or received: if delivered in person, immediately upon delivery; if by telex, telegram or facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next business day, one (1) business day after sending; and if mailed by certified mail, return receipt requested, five (5) days after mailing to the parties at their addresses set forth below (or to such other addresses as the parties may designate in accordance with the provisions of this Section):

To Congress: Congress Financial Corporation
 (Florida)
 777 Brickell Avenue
 Miami, Florida 33131
 Attention: Mr. Steven I. Harnick

To Trustee and
the Noteholders: Meltzer, Lippe, Goldstein & Schlissel, P.C.
 The Chancery
 190 Willis Avenue
 Mineola, New York 11501
 Attention: Alan C. Ederer, Esq.

Each Creditor may change the address(es) to which all notices, requests and other communications are to be sent to it by giving written notice of such address change to the other Creditors in conformity with this Section 4.5, but such change shall not be effective until notice of such change has been received by the other Creditors.

4.6. Counterparts. This Intercreditor Agreement may be executed in any number of counterparts, each of which shall be an original with the same force and effect as if the signatures thereto and hereto were upon the same instrument.

4.7. Governing Law. The validity, construction and effect of this Intercreditor Agreement shall be governed by the internal laws of the State of Florida (without giving effect to principles of conflicts of law).

4.8. Consent to Jurisdiction; Waiver of Jury Trial. Each of the parties hereto hereby irrevocably consents to the non-exclusive jurisdiction of the Circuit Court of Dade County, Florida and the United States District Court for the Southern District of Florida and waives trial by jury in any action or proceeding with respect to this Intercreditor Agreement.

4.9. Complete Agreement. This written Intercreditor Agreement is intended by the parties as a final expression of their agreement and is intended as a complete statement of the terms and conditions of their agreement.

4.10. No Third Parties Benefitted. Except as expressly provided in Section 4.2, this Intercreditor Agreement is solely for the benefit of the Creditors and their respective successors, participants and assigns, and no other person shall have any right, benefit, priority or interest under, or because of the existence of, this Intercreditor Agreement.

4.11. Disclosures; Non-Reliance. Each Creditor has the means to, and shall in the future remain, fully informed as to the financial condition and other affairs of Debtor and no Creditor shall have any obligation or duty to disclose any such information to any other Creditor. Except as expressly set forth in this Intercreditor Agreement, the parties hereto have not otherwise made to each other nor do they hereby make to each other any warranties, express or implied, nor do they assume any liability to each other with respect to: (a) the enforceability, validity, value or collectability of any of the Congress Debt, the Series E Note Debt or the 1999 Note Debt or any guarantee or security which may have been granted to any of them in connection therewith, (b) Debtor's title to or right to transfer any of the Intellectual Property Collateral, or (c) any other matter except as expressly set forth in this Intercreditor Agreement.

4.12. Term. This Intercreditor Agreement is a continuing agreement and shall remain in full force and effect until the indefeasible satisfaction in full of all Congress Debt and the termination of the financing arrangements between Congress, MPS and Debtor.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Intercreditor Agreement to be duly executed as of the day and year first above written.

CONGRESS FINANCIAL CORPORATION
(FLORIDA)

By: Virginia Farnsworth
Title: V.P.

MELTZER, LIPPE, GOLDSTEIN &
SCHLISSEL, P.C., as Trustee

By: _____

Title: _____

Each of the undersigned hereby acknowledges and agrees to the foregoing terms and provisions. By its signature below, each of the undersigned agrees that it will, together with its successors and assigns, be bound by the provisions hereof.

Each of the undersigned agrees that any Creditor holding Intellectual Property Collateral does so as bailee (under the UCC) for the other Creditors and is hereby authorized to and may turn over to such other Creditors upon request therefor any such Intellectual Property Collateral, after all obligations and indebtedness of the undersigned to the bailee Creditor have been fully paid and performed.

Each of the undersigned acknowledges and agrees that: (i) although it may sign this Intercreditor Agreement it is not a party hereto and does not and will not receive any right, benefit, priority or interest under or because of the existence of the foregoing Intercreditor Agreement, (ii) in the event of a breach by the undersigned or by Trustee or any Noteholder of any of the terms and provisions contained in the foregoing Intercreditor Agreement, such a breach shall constitute an "Event of Default" as defined in and under the Congress Agreements and (iii) it will execute and deliver such additional documents and take such additional action as may be necessary or desirable in the opinion of any Creditor to effectuate the provisions and purposes of the foregoing Intercreditor Agreement.

MOLTECH CORPORATION

By: Guy
Title: TREAS. OFF.

MOLTECH POWER SYSTEMS, INC.

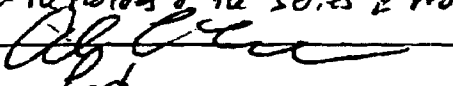

By: Guy
Title: SECRETARY - TREAS. OFF.

IN WITNESS WHEREOF, the parties have caused this Intercreditor Agreement to be duly executed as of the day and year first above written.

CONGRESS FINANCIAL CORPORATION
(FLORIDA)

By: _____

Title: _____

MELTZER, LIPPE, GOLDSTEIN &
SCHLISSEL, P.C., as Trustee and Agent
For the Holders of the Series B Notes and the 1999 Notes
By: 
Title: 

Each of the undersigned hereby acknowledges and agrees to the foregoing terms and provisions. By its signature below, each of the undersigned agrees that it will, together with its successors and assigns, be bound by the provisions hereof.

Each of the undersigned agrees that any Creditor holding Intellectual Property Collateral does so as bailee (under the UCC) for the other Creditors and is hereby authorized to and may turn over to such other Creditors upon request therefor any such Intellectual Property Collateral, after all obligations and indebtedness of the undersigned to the bailee Creditor have been fully paid and performed.

Each of the undersigned acknowledges and agrees that: (i) although it may sign this Intercreditor Agreement it is not a party hereto and does not and will not receive any right, benefit, priority or interest under or because of the existence of the foregoing Intercreditor Agreement, (ii) in the event of a breach by the undersigned or by Trustee or any Noteholder of any of the terms and provisions contained in the foregoing Intercreditor Agreement, such a breach shall constitute an "Event of Default" as defined in and under the Congress Agreements and (iii) it will execute and deliver such additional documents and take such additional action as may be necessary or desirable in the opinion of any Creditor to effectuate the provisions and purposes of the foregoing Intercreditor Agreement.

MOLTECH CORPORATION

By: _____

Title: _____

MOLTECH POWER SYSTEMS, INC.

By: _____

Title: _____

SCHEDULE 1
TO
INTERCREDITOR AGREEMENT

Intellectual Property Collateral

TRADEMARKS, TRADE NAMES, ETC.

Unregistered: "MOLTECH," "OSP," "LI-S," "Lithium-Sulfur," "Powering the Electronic Future"

PATENTS, PATENT APPLICATIONS, PROVISIONAL APPLICATIONS
AND FOREIGN APPLICATIONS

U.S. PATENT REGISTRATIONS

Patent Reg. Number	ISSUE DATE
5,128,587	7/7/92
5,264,092	11/23/93
5,460,905	10/24/95
5,462,566	10/31/95
5,538,812	7/23/96
5,529,860	6/25/96
5,580,527	12/3/96
5,601,947	2/11/97
5,648,187	7/15/97
5,690,702	11/25/97
5,919,996	7/6/99
5,961,672	10/5/99
5,962,171	10/5/99

Pending U.S. Patent Applications
and PROVISIONAL APPLICATIONS

APPLICATION NO.	FILING DATE
09/293,498	4/15/99
09/033,218	3/02/98

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Schedule 1
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Intercreditor Agreement

PATENT
REEL: 010470 FRAME: 0842

09/257,849	2/25/99
09/336,247	6/17/99
08/994,708	12/19/97
08/995,090	12/19/97
08/995,089	12/19/97
09/215,112	12/17/98
08/995,122	12/19/97
09/172,720	10/13/98
08/994,343	12/19/97
09/079,995	5/15/98
09/093,528	6/8/98
09/093,527	6/08/98
09/205,873	12/4/98
09/215,030	12/17/98
09/215,029	12/17/98
09/399,967	9/21/99
09/215,057	12/17/98
09/215,115	12/17/98
09/271,625	3/17/99
60/132,348	5/4/99
60/132,393	5/4/99
60/139,031	6/9/99
60/151,275	8/27/99

Foreign Filings

APPLICATION NO.	FILING DATE	U.S. PRIORITY APPL. NO.
EP 94/304351.3	7/12/94	
JP 6-184109	7/12/94	
EP 96/910529.5	24/9/97	
JP 08-528648	3/15/96	
JP 9-500549	5/2/96	
EP 96915730.4	5/2/96	
KR 97-709157	5/2/96	
CA 2,221,603	5/2/96	
EP 96920559.0	5/24/96	
JP 9-500816	5/24/96	
India 1015/cal/96	6/3/96	
India 1127/Cal/97	6/12/97	

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Intercreditor Agreement

EP 97928651.5	11/01/98	
JP 9-542782	11/01/98	
EP 97929943.5	12/24/98	
JP 10-501807	12/14/98	
PCT/US98/13877	7/02/98	08/889,202
PCT/US98/26126	12/09/98	08/994,708
PCT/US98/26160	12/09/98	08/995,090
PCT/US98/26913	12/17/98	08/995,089
PCT/US98/26124	12/09/98	08/995,122
PCT/US98/21663	10/13/98	09/172,720
PCT/US98/26197	12/09/98	08/994,343
PCT/US99/10388	5/11/99	09/079,995
PCT/US99/12167	5/28/99	09/093,528
PCT/US99/12086	5/28/99	09/093,527
PCT/US99/17347	7/29/99	09/205,873

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Schedule 1
To
Intercreditor Agreement

SCHEDULE 2
TO
INTERCREDITOR AGREEMENT

1999 Noteholders

- Auber Investments Limited
- Donald E. Axinn
- Bermuda Trust Co Ltd., as trustee
- Delta Holding Corp.
- Mosvold-Farsund AS
- S-7Associates LLC
- Leo Guthart
- Sherlock Business, Ltd.
- Harris Foundation
- Couderay Partners
- WWH-Benjamin 76 Trust
- WWH-David 76 Trust
- Irving B. Harris Revocable Trust
- Janet Rosenberg
- Norris Darrell, Jr.

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of
Schedule 2
To
Intercreditor Agreement

17-1

PATENT
REEL: 010470 FRAME: 0845

SCHEDULE 3
TO
INTERCREDITOR AGREEMENT

Series E Noteholders

• Auber Investments Limited
• Donald E. Axinn
• Bermuda Trust Co Ltd., as Trustee
• Delta Holding Corp.
• Mosvold-Farsund AS
• S-7Associates LLC
• Sherlock Business, Ltd.
• Clarex Limited
• Lebam Advisors Pension Plan & Trust
• NSV Invest NA
• Henry Perry
• Pinto Partners, L.P.
• Boardman Lloyd Trust dtd 12/6/76
• Courderay Partners
• Norris Darrell, Jr.
• Fred Holubow
• Jerome Kahn, Jr. Revocable Trust dtd 10/16/87
• MB Resources
• Rieton Corp.
• David Rosenbaum and Margot Kahn
• Mark Silber
• Strandkanten AS
• WWH-Benjamin 76 Trust
• WWH-David 76 Trust
• Leo Guthart
• Probe A/S
• Lemnos Corporation
• Mogens Mathiesen
• Selvaag Invest A.S.