

## **Exhibit A**

*Final for Execution*

## **LIQUIDATION TRUST AGREEMENT**

This Liquidation Trust Agreement (the “**Liquidation Trust Agreement**”) is being entered into as of July 30, 2015, between (a) STUW LLC, as administrative agent (in such capacity, the “**Agent**”) for the pre-petition lenders and post-petition lenders (collectively, the “**Lenders**,” and together with the Agent, the “**Lender Parties**”) to Mississippi Phosphates Corporation (“**MPC**”), Ammonia Tank Subsidiary, Inc. (“**ATS**”) and Sulfuric Acid Tanks Subsidiary, Inc. (“**SATS**”), as debtors and debtors in possession (collectively, the “**Debtors**”) and Phosphate Holdings, Inc. (“**PHI**”), (b) United States of America on behalf of the Environmental Protection Agency (the “**EPA**”); and Mississippi Department of Environmental Quality (the “**MDEQ**,” and together with the EPA, collectively, the “**Governments**”), (c) Robert E. Ogle, in his capacity as trustee under this Liquidation Trust Agreement (the “**Liquidation Trustee**”) and (d) Project Navigator, Ltd., in its capacity as trustee under the Environmental Trust created pursuant to the Environmental Settlement Agreement and the Approval Order (the “**Environmental Trustee**”) (collectively the “**Parties**”). Capitalized terms not otherwise defined herein shall have their respective meanings provided under the Stipulation and Settlement Agreement by and among the Debtors, the Lender Parties, the Governments and PHI filed with the United States Bankruptcy Court for the Southern District of Mississippi (the “**Bankruptcy Court**”) in the Chapter 11 cases of the Debtors, jointly administered under Case No. 14-151667 on June 22, 2015 under Docket No. 818-1, including all of the modifications made thereto (the “**Environmental Settlement Agreement**”).

NOW, THEREFORE, pursuant to the Environmental Settlement Agreement and the Approval Order entered by the Bankruptcy Court on July 30, 2015 under Docket No. 950 approving the Environmental Settlement Agreement and this Liquidation Trust Agreement (the “**Approval Order**”) and in consideration of the mutual agreements of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and affirmed, the parties hereby agree as follows:

### **ARTICLE I DECLARATION OF TRUST**

#### **1.1 Purpose of the Liquidation Trust.**

The Lender Parties, the Liquidation Trustee, and the Debtors, pursuant to the Environmental Settlement Agreement and the Approval Order and in accordance with the Bankruptcy Code, applicable tax statutes, rules and regulations, to the extent incorporated in this Liquidation Trust Agreement, hereby establish the Liquidation Trust on behalf of and for the sole benefit of the Lender Parties and the Environmental Trust created pursuant to the Environmental Settlement Agreement and the Approval Order (the “**Environmental Trust**” and collectively with the Lender Parties, the “**Beneficiaries**”) and, with respect to the Excess Proceeds, for the residual benefit of the Debtors’ bankruptcy estates or their successors (the “**Bankruptcy Estates**”) as provided in the Environmental Settlement Agreement, and for the primary purpose of liquidating the Liquidation Trust Acquired Assets (defined below) and distributing the Liquidation Trust Acquired Assets or their proceeds to the Beneficiaries and the Bankruptcy Estates within the Liquidation Period (as defined in Section 2.1 herein) pursuant to the Environmental Settlement Agreement. Although, it shall not be the objective or purpose of this Liquidation Trust to conduct a trade or business except as reasonable and necessary to, and consistent with, the liquidation of

the Liquidation Trust Acquired Assets the Liquidation Trust may continue business activities as needed, to reasonably maximize the Liquidation Trust Acquired Assets' value, but always consistent with the primary purpose of liquidation and distribution to Beneficiaries. In particular, the Liquidation Trust, through the Liquidation Trustee, will do the following:

- (a) acquire all of the Liquidation Trust Acquired Assets in the name of the Liquidation Trust;
- (b) to the extent feasible, reduce all Liquidation Trust Acquired Assets to cash;
- (c) make all distributions in accordance with the Environmental Settlement Agreement to the extent such distributions are to be made from the Liquidation Trust Acquired Assets;
- (d) retain professionals and other agents;
- (e) take such steps as are reasonable and necessary to accomplish the Liquidation Trust's purpose, all as provided in, and subject to the terms and provisions of, the Environmental Settlement Agreement and this Liquidation Trust Agreement; and
- (f) operate as necessary to comply with Treas. Reg. § 301.7701-4(d).

The Liquidation Trust Acquired Assets shall be held for the exclusive and sole benefit of the Beneficiaries and the Bankruptcy Estates and shall only be used to fund distributions to such Beneficiaries and the Bankruptcy Estates in accordance with the Environmental Settlement Agreement and to fund payment of costs, fees, and expenses incurred in connection with the administration of the Liquidation Trust or the Environmental Settlement Agreement.

#### 1.2 Rights of Debtors and PHI.

Except with respect to the right to distribution of the Excess Proceeds to the Bankruptcy Estates, the Debtors and PHI shall have no claim to or right or interest in, whether direct, residual, contingent or otherwise, the Liquidation Trust Acquired Assets once such assets have been transferred to the Liquidation Trust.

#### 1.3 Name of the Liquidation Trust.

The Liquidation Trust established hereby shall be known as the "MPC Liquidation Trust." In connection with the exercise of his powers, the Liquidation Trustee may use the name or such variation thereof as he sees fit, and may transact the affairs of the Liquidation Trust in such name.

#### 1.4 Transfer of Assets to Create Liquidation Trust.

Effective as of the Closing of the Alternative Transaction (the "**Closing Date**"), the Lender Parties have assigned to the Liquidation Trustee the Agent's \$15,000,000 credit bid and all of the rights of the Lender Parties thereunder. Pursuant to the Approval Order and the Liquidation Trust APA and such assignments, conveyances, bills of sale and other documents provided for therein,

effective as of the Closing Date, the Liquidation Trustee has consummated the credit bid, and the Debtors have granted, released, assigned, transferred conveyed and delivered the Liquidation Trust Acquired Assets to the Liquidation Trustee and his successors, to be held in trust and to be applied as specified in the Environmental Settlement Agreement and this Liquidation Trust Agreement. Through the transfer of each Bankruptcy Estate's assets, and except as otherwise provided herein or in the Environmental Settlement Agreement, such assets are Liquidation Trust Acquired Assets and the Liquidation Trust has the sole and exclusive right, title and interest in and possession of the Liquidation Trust Acquired Assets.

#### 1.5 Assumption of Liabilities.

Effective as of the Closing Date, the Liquidation Trustee assumes, in his capacity as trustee and not individually, joint and several liability with the Debtors for all DIP/Exit Obligations and all Secured Tax Claims (collectively, the "*Assumed Liabilities*"). The Liquidation Trustee agrees to execute such documents as may reasonably be required by the Lender Parties with respect to the assumption of the DIP/Exit Obligations.

#### 1.6 Free and Clear.

Except for the Assumed Liabilities, the Liquidation Trust Acquired Assets have been transferred to the Liquidation Trustee free and clear of all liens, claims and encumbrances, including without limitation all environmental liens, claims, and encumbrances, to the extent set forth in the Environmental Settlement Agreement and the Approval Order; provided, however, that nothing herein or in any agreement or order authorizing a sale will be construed to release, nullify, preclude or enjoin the enforcement of any environmental liability to a governmental body that the Liquidation Trust would be subject to as the current owner or operator of property after the Closing Date. All Liquidation Trust Acquired Assets sold by the Liquidation Trust shall be sold free and clear of all environmental liens, claims, and encumbrances, provided, however, that nothing herein or in any agreement or order authorizing a sale of Liquidation Trust Acquired Assets by the Liquidation Trust to a third party buyer (a "*Buyer*") will be construed to release, nullify, preclude or enjoin the enforcement of any environmental liability to a governmental body to which such Buyer would be subject as the current owner or operator of property after the date of closing of such sale. As provided in the Environmental Settlement Agreement, nothing in the Environmental Settlement Agreement shall (a) be interpreted to deem the Buyer as the successor to the Debtors under any successor liability doctrine with respect to any liabilities under environmental statutes or regulations for penalties for days of violation prior to the closing of any such sale or for liabilities relating to off-site disposal of wastes by the Debtors prior to the closing of any such sale; or (b) create for any governmental unit any substantive right that does not already exist under law.

#### 1.7 Acceptance by Liquidation Trustee.

The Liquidation Trustee hereby accepts and confirms the following: (a) the appointment to serve as Liquidation Trustee; (b) the assignment of the Lender Bid and the transfer of the Liquidation Trust Acquired Assets, and all right, title and interest therein, to the Liquidation Trust; (c) the Assumed Liabilities; and (d) the obligations and duties imposed on him by this Liquidation Trust Agreement. The Liquidation Trustee agrees to receive, hold, administer and distribute the

Liquidation Trust Acquired Assets and the income derived therefrom, and to make distributions in accordance with the Environmental Settlement Agreement and this Liquidation Trust Agreement.

## ARTICLE II TERMINATION OF TRUST

### 2.1 Maximum Term.

The Liquidation Trust shall terminate no later than the fourth anniversary of the Closing Date (the “**Liquidation Period**”); provided, however, that, if directed by the Lender Parties, the Liquidation Trustee will extend the term of the Liquidation Trust for a period of up to an additional one year (an “**Extension Period**”), provided further, however, that any such extension shall be expressly conditioned on the Liquidation Trustee’s determination that there is sufficient funding to continue the operations and wind-down of the Liquidation Trust through any such proposed Extension Period. If directed by the Lender Parties and approved by the Governments and the Environmental Trustee or, absent such approval, such extension is approved by a court of competent jurisdiction, additional Extension Periods may follow the initial and subsequent Extension Periods; provided, however, that each such additional Extension Period shall be expressly conditioned on the Liquidation Trustee’s determination that there is sufficient funding to continue the operations and wind-down of the Liquidation Trust through such proposed Extension Period. The Liquidation Trust shall terminate at the earlier of (a) the date on which all Liquidation Trust Acquired Assets have been reduced to cash and all distributions have been made and (b) expiration of the Liquidation Period or the final Extension Period, if applicable. In addition, the Liquidation Trust shall terminate at any time (x) upon the recommendation of the Liquidation Trustee and the unanimous consent of the Beneficiaries or (y) upon the joint agreement and direction of the Beneficiaries, in either case if it is no longer economically justified or feasible to continue the existence of the Liquidation Trust. Upon termination of the Trust, all cash remaining, after providing for the wind-down of the Liquidation Trust and the costs and fees related to the transfer of remaining Liquidation Trust Acquired Assets to the Environmental Trust, will be distributed to the Beneficiaries and the Bankruptcy Estates as provided herein and in the Environmental Settlement Agreement to the extent not previously distributed, and the remaining Liquidation Trust Acquired Assets will be transferred to the Environmental Trust.

### 2.2 Winding Up and Discharge of the Liquidation Trustee.

For purposes of winding up the affairs of the Liquidation Trust at its termination, the Liquidation Trustee shall continue to act as Liquidation Trustee until his duties have been fully discharged. After doing so, the Liquidation Trustee, his agents, professionals and employees, if any, shall have no further duties or obligations hereunder, except as required by this Liquidation Trust Agreement, the Environmental Settlement Agreement, the Approval Order or applicable state law pertaining to the termination of a trust.

ARTICLE III  
OBLIGATIONS OF THE LIQUIDATION TRUSTEE

3.1 Establishment and Maintenance of Accounts, Reserves and Escrows.

(a) Initial Establishment of Accounts and Reserves. On the Closing Date or as soon thereafter as practicable, the Liquidation Trustee shall establish the following segregated accounts and reserves:

(1) Operations. An account to fund the payment of real and personal property taxes, including income taxes (to the extent applicable), and payroll, withholding taxes, and insurance.

(2) Distribution Fund: One or more general accounts (the “*Distribution Fund*”) into which shall be deposited from time to time, to the extent sufficient assets are available, cash for distributions to the Beneficiaries pursuant to this Liquidation Trust Agreement and the Environmental Settlement Agreement.

(3) Wind-Down Reserve Account: An account, designated as a “*Wind-Down Reserve Account*,” as described more fully in Section 3.3 below.

(4) Trammo Funds Account: An account for funds received from the Trammo Terminal Operation (“*Trammo Funds Account*”).

(5) Reimbursement Escrow Amount. An account for funds to reimburse the State Trust Fund in accordance with Paragraph 34 of the Environmental Settlement Trust (the “*Reimbursement Escrow Account*”).

(b) Subsequent Establishment of Accounts, Reserves and Escrows. On or after the Closing Date, subject to the provisions of Section 3.4, the Liquidation Trustee (i) shall establish and maintain such additional accounts, reserves and escrows, to the extent sufficient assets are available, as may be required by applicable law or by order of a court of competent jurisdiction, and (ii) may establish and maintain such additional accounts, reserves and escrows as he deems necessary or desirable to carry out the provisions of the Environmental Settlement Agreement and this Liquidation Trust Agreement.

3.2 Amounts Deposited in Reserves.

The amounts to be initially deposited in the reserves shall be established by the Liquidation Trustee consistent with the terms of the Environmental Settlement Agreement. Subject to the provisions of Section 3.4, changes in the amounts maintained in the reserves may be made at any time thereafter in the discretion of the Liquidation Trustee, except that the Wind-Down Reserve Account cannot be reduced without the consent of the Beneficiaries.. The Wind-Down Reserve Account shall be maintained in a bank or other financial institutions whose deposits are federally insured. In addition, all funds collected and/or maintained by the Liquidation Trust as provided under this Liquidating Trust Agreement shall be maintained in a bank or other financial institutions whose deposits are federally insured.



### 3.3 Wind-Down Reserve Account.

On the Closing Date (or as soon thereafter as practicable), the Liquidation Trustee shall, pursuant to and consistent with the provisions of the Environmental Settlement Agreement, establish the Wind-Down Reserve Account, which shall be funded with such amounts as the Liquidation Trustee determines in his discretion are necessary and appropriate to cover the estimated costs of the Liquidation Trustee in connection with his duties and obligations under the Liquidation Trust Agreement and the Environmental Settlement Agreement, trust administration costs, costs of holding and liquidation of any non-cash property, including, but not limited to, taxes and professional fees, and sufficient reserves to cover such costs going forward, provided that the Wind-Down Reserve Account shall initially be funded with \$50,000 and shall thereafter maintain a minimum funding balance of not less than \$50,000. The Wind-Down Reserve Account shall be administered pursuant to the Environmental Settlement Agreement and this Liquidation Trust Agreement for purposes of providing funds necessary to cover the ordinary and reasonable wind-down costs, expenses and obligations to be incurred in administering the Liquidation Trust as provided for hereunder and under the Environmental Settlement Agreement. Upon the winding down and prior to termination of the Liquidation Trust in connection with the transfer of remaining Liquidation Trust Acquired Assets to the Environmental Trust, the Liquidation Trustee shall set aside such reserves as may be reasonably necessary to transfer remaining Liquidation Trust Acquired Assets to the Environmental Trust and pay all costs of transferring the Liquidation Trust Acquired Assets to the Environmental Trust (including all recording costs, transfer fees, title insurance premiums, and other costs incident to the transfers) and any invoices, statements, and amounts relating to the Liquidation Trust Acquired Assets that relate to the period prior to the transfer of the Liquidation Trust Acquired Assets to the Environmental Trust (as required by Section 4.4(q) and shall hold such reserves for up to 60 days following the date of such transfer to satisfy such liabilities or obligations.

In connection with making a distribution of cash or other assets under the Environmental Settlement Agreement, if the Liquidation Trustee determines, in his sole discretion, that any excess cash is available from the Wind-Down Reserve Account (the “*Excess Wind-Down Reserve Amount*”), the Liquidation Trustee may transfer the Excess Wind-Down Reserve Amount to the Distribution Fund for subsequent distribution to the Beneficiaries pursuant to the terms of the Environmental Settlement Agreement.

### 3.4 Use of Assets; Operating Budget.

All cash or other property held or collected by the Liquidation Trustee shall be used solely for the purposes contemplated by the Environmental Settlement Agreement or this Liquidation Trust Agreement. The Liquidation Trustee will operate in accordance with an annual operating budget approved by the Lender Parties and the Governments as provided in the Environmental Settlement Agreement, with the authority to deviate not more than 10% from any line item. In the event an annual budget is not or cannot be approved for the second or third year of the term of the Liquidation Trust, the Liquidating Trust shall have the authority to continue to operate pursuant to the immediately prior approved annual budget for a period of two months at the beginning of which time the dispute shall be referred for resolution to the Bankruptcy Court.

### 3.5 Distributions.

After paying all expenses of the Liquidation Trust and funding all reserves, the Liquidation Trustee will distribute any net income of the Liquidation Trust plus all net proceeds from the liquidation of the Liquidation Trust Acquired Assets as provided in the distribution schedule attached hereto as Exhibit A.

## ARTICLE IV POWERS AND DUTIES OF THE LIQUIDATION TRUSTEE

### 4.1 Duties of Liquidation Trustee.

The Liquidation Trustee shall have such duties and responsibilities as are specified in the Environmental Settlement Agreement and this Liquidation Trust Agreement.

### 4.2 Reports and Meetings.

The Liquidation Trustee shall provide monthly written reports, on or before the fifteenth day of each month for the prior month, to the Beneficiaries and the Governments regarding the marketing and sale process for the Liquidation Trust Acquired Assets and shall provide quarterly financial statements of the Liquidation Trust, on or before ten business days after each fiscal quarter for the prior fiscal quarter, and conduct quarterly telephonic or in-person meetings with the Beneficiaries regarding the finances of the Liquidation Trust.

### 4.3 Authority and Duties of Liquidation Trustee.

The Liquidation Trustee shall make continuing efforts to dispose of the Liquidation Trust Acquired Assets, make timely distributions and not unduly prolong the duration of the Liquidation Trust. Consistent with this Section 4.3, the Liquidation Trustee's rights and authority include, without limitation, all of the following, each of which shall also be a duty of the Liquidation Trustee if and to the extent required pursuant to the Environmental Settlement Agreement:

- (a) maintain escrows and other accounts, make distributions and take other actions consistent with the Environmental Settlement Agreement and the implementation hereof, including the establishment, re-evaluation, adjustment and maintenance of appropriate reserves, in the name of Liquidation Trustee;
- (b) collect, receive, control, manage and dispose of all Liquidation Trust Acquired Assets pursuant to the Environmental Settlement Agreement for the benefit of the Beneficiaries who may receive distributions under the Environmental Settlement Agreement, including without limitation the management of the Liquidation Trust's rights and obligations as assignee of the agreement between the Debtors and Trammo, Inc. with respect to ammonia terminaling operations;
- (c) enter into and perform all obligations of the borrower under the Term Loan Credit Facility (the "*Exit Facility*") with the Lender Parties as



contemplated by the Environmental Settlement Agreement, provide security for the repayment thereof and make repayment thereof from the net proceeds of sale so the Liquidation Trust Acquired Assets and net income of the Liquidation Trust as contemplated by this Liquidation Trust Agreement;

- (d) act as custodian of the Liquidation Trust Acquired Assets and liquidate and reduce such assets to cash at such time as the Liquidation Trustee deems appropriate to accomplish the purpose of the Liquidation Trust, in accordance with the terms of the Environmental Settlement Agreement and the Liquidation Trust Agreement;
- (e) calculate and pay all distributions required or permitted to be made under the Environmental Settlement Agreement, this Liquidation Trust Agreement and/or orders of the Bankruptcy Court;
- (f) employ, supervise and compensate attorneys, accountants, financial advisors and other professionals or other persons retained to represent the interests of and serve on behalf of the Liquidation Trust (the “**Trust Professionals**”), and waive any conflicts of interest as deemed necessary or appropriate in his discretion. The Liquidation Trustee may commit the Liquidation Trust to and shall pay such Trust Professionals reasonable compensation for services rendered and expenses incurred. A law firm or other professional shall not be disqualified from being employed by the Liquidation Trustee solely because of its current or prior retention as counsel or professional to the Debtors or the Lenders;
- (g) file such tax returns as may be required by federal, state or local taxing authorities and consistent with the treatment of the Liquidation Trust as a grantor trust for federal income tax purposes;
- (h) invest cash and conduct a trade or business activities, with an intent to reasonably maximize value, to the extent consistent with the primary purpose of the Liquidation Trust and provided that any such trade or business activity shall be operated in accordance with, and subject to, applicable non-bankruptcy law;
- (i) enter into any agreement or execute any document required by or consistent with the Environmental Settlement Agreement and perform all of the obligations of the Debtors or the Liquidation Trustee thereunder;
- (j) pay all expenses and make other necessary payments relating to the Liquidation Trust Acquired Assets;
- (k) utilize Trust Acquired Assets to purchase or create and carry all appropriate insurance policies and pay all insurance premiums and costs it deems necessary or advisable to insure the acts and omissions of the Liquidation Trustee;

- (l) perform any and all acts necessary or appropriate for the conservation and protection of the Liquidation Trust Acquired Assets;
- (m) maintain appropriate books and records (including financial books and records);
- (n) within two (2) business days of the Closing Date, upon the request of the Environmental Trustee, cause to be transferred to the Environmental Trust, at the direction of the Environmental Trustee, cash in the amount of up to \$50,000 to fund the Environmental Trust Administrative Account, in accordance with the Environmental Settlement Agreement;
- (o) distribute allocated proceeds from the net income of the Trammo Terminal Operations, as defined in the Environmental Settlement Agreement, to the Environmental Trust in accordance with approved budgets and the Agent's approval (which shall not be unreasonably withheld) to fund the Environmental Trust Administrative Account;
- (p) upon request by the Environmental Trustee to address a shortfall in the Environmental Trust Administrative Account, and subject to the terms of the Environmental Settlement Agreement, including the approval of the Liquidation Trustee, the Agent and the Governments which will not be unreasonably withheld, provide additional funding from the net income of the Trammo Terminal Operations (as defined in the Environmental Settlement Agreement) to the Environmental Trust;
- (q) upon the winding down and prior to termination of the Liquidation Trust, transfer remaining Liquidation Trust Acquired Assets to the Environmental Trust and pay all costs of transferring the Liquidation Trust Acquired Assets to the Environmental Trust (including all recording costs, transfer fees, title insurance premiums, and other costs incident to the transfers) and any invoices, statements, and amounts relating to the Liquidation Trust Acquired Assets that relate to the period prior to the transfer of the Liquidation Trust Acquired Assets to the Environmental Trust; and
- (r) such other actions as may be reasonably required in furtherance of the Liquidation Trustee's duties and responsibilities under this Liquidation Trust Agreement and the Environmental Settlement Agreement.

#### 4.4 Limitations on the Liquidation Trustee.

Except as expressly provided in this Liquidation Trust Agreement or the Environmental Settlement Agreement to the contrary, the Liquidation Trustee, in his capacity as such, shall not do or undertake any of the following:

- (a) guaranty any debt;
- (b) loan Liquidation Trust Acquired Assets;

- (c) purchase Liquidation Trust Acquired Assets from the Liquidation Trust;
- (d) transfer Liquidation Trust Acquired Assets to another trust with respect to which the Liquidation Trustee serves as trustee (other than the Environmental Trust); or
- (e) except as otherwise reasonably necessary to maintain the value of the Liquidation Trust Acquired Assets and to further the Liquidation purpose of the Liquidation Trust, invest Liquidation Trust Acquired Assets other than in short-term, liquid investments, such as bank demand and time deposits, short-term bank or saving institution certificates of deposit or Treasury Bills.

In addition, the Liquidation Trustee shall be required to obtain the prior approval in writing by the Lender Parties and the Governments of any proposed sale of the Liquidation Trust Acquired Assets for an amount of \$500,000 or more, which approval shall not be unreasonably withheld. In the event the Lender Parties and the Governments are unable to reach an agreement on a proposed sale, the Liquidation Trustee may seek an order from the Bankruptcy Court to authorize the sale after notice and hearing.

#### 4.5 Liquidation Trustee and Conflicts of Interest.

If the Liquidation Trustee determines, in the exercise of his reasonable discretion, that he has a material conflict of interest on any matter, the Liquidation Trustee shall notify the Beneficiaries, who may select a designee to act on behalf of the Liquidation Trust solely with respect to such matter (the “*Designee*”), with such Designee’s authority to act on behalf of the Liquidation Trust to terminate upon the matter’s conclusion. If the Designee files a pleading, motion or other filing with a court or tribunal on behalf of the Liquidation Trust, it shall do so in its own name as “Designee of the MPC Liquidation Trust.”

#### 4.6 Register of Beneficiaries.

The Liquidation Trustee shall use the Environmental Settlement Agreement to identify the names, addresses, and amounts of Claims of the Beneficiaries (the “*Liquidation Register*”). The Liquidation Trustee shall maintain the Liquidation Register, and shall add thereto information regarding whether each Claim of each Beneficiary is paid, and any informational changes to the Liquidation Register will be made upon proper notification under this Liquidation Trust Agreement submitted to the Liquidation Trustee.

#### 4.7 Books and Records.

The Liquidation Trustee also shall maintain in respect of the Liquidation Trust and the Beneficiaries, books and records relating to the Liquidation Trust Acquired Assets and income realized therefrom and the payment of expenses of and claims against or assumed by the Liquidation Trust in such detail and for such period of time as may be necessary to enable him to make full and proper reports in respect thereof. Such books and records shall be maintained in a manner consistent with the Environmental Settlement Agreement and this Liquidation Trust Agreement. Except as expressly provided in this Liquidation Trust Agreement or the

Environmental Settlement Agreement, nothing in the Liquidation Trust Agreement is intended to require the Liquidation Trustee to file any accounting or seek approval of any court with respect to the administration of the Liquidation Trust, or as a condition for making any payment or distribution out of the Liquidation Trust Acquired Assets.

#### 4.8 Tax Returns.

The Liquidation Trustee shall file such tax returns as may be required by federal, state or local taxing authorities and consistent with the treatment of the Liquidation Trust as a grantor trust for federal income tax purposes. The Liquidation Trustee shall file federal income tax returns consistent with and pursuant to §1.671-4(a) of the Income Tax Regulations.

#### 4.9 Final Accounting of Liquidation Trustee.

The Liquidation Trustee shall, within ninety (90) days after the termination of the Liquidation Trust or his resignation, removal, liquidation or death (in which case, the obligation contained in this Section shall pass to the Liquidation Trustee's estate), render a final accounting containing at least the following information:

- (a) A description of the Liquidation Trust Acquired Assets and their disposition;
- (b) A summarized accounting in sufficient detail of all gains, losses, receipts, disbursements and other transactions in connection with the Liquidation Trust and the Liquidation Trust Acquired Assets during the Liquidation Trustee's term of service, including their source and nature;
- (c) Separate entries for all receipts of principal and income;
- (d) The ending balance of all Liquidation Trust Acquired Assets as of the date of the Liquidation Trustee's accounting, including the cash balance on hand and the name and location of the depository where it is kept;
- (e) All known liabilities owed by the Liquidation Trust; and
- (f) The then current Liquidation Register.

### ARTICLE V

#### APPOINTMENT, RESIGNATION/REMOVAL, COMPENSATION AND LIABILITY OF LIQUIDATION TRUSTEE

##### 5.1 Appointment.

The Liquidation Trustee is Robert E. Ogle, who shall act hereunder solely in his capacity as Liquidation Trustee of the Liquidation Trust and not otherwise.

## 5.2 Resignation.

The Liquidation Trustee may resign by giving not less than thirty (30) days' prior written notice thereof to the Beneficiaries; provided, however, that such resignation shall not become effective until the appointment and Bankruptcy Court approval of a successor Liquidation Trustee in accordance with Section 5.4 hereof. If a Liquidation Trustee resigns from his position hereunder, subject to a final accounting, such Liquidation Trustee, including his professionals, attorneys, and advisors, shall be entitled to all accrued but unpaid fees, expenses, and other compensation to the extent incurred, arising or relating to events occurring before such resignation, and any out-of-pocket expenses reasonably incurred in connection with the transfer of all powers and duties to the successor Liquidation Trustee.

## 5.3 Removal.

At any time upon the request of either of the Beneficiaries, the Bankruptcy Court may remove the Liquidation Trustee for "Cause." For purposes of this Section 5.3, "Cause" shall mean:

- (a) an act of fraud, embezzlement, or theft in connection with the Liquidation Trustee's duties or in the course of his employment in such capacity,
- (b) the intentional wrongful damage to the Liquidation Trust Acquired Assets,
- (c) the intentional wrongful disclosure of confidential information of the Liquidation Trust resulting in material harm to the Liquidation Trust, or
- (d) gross negligence by the Liquidation Trustee in connection with the performance of his duties under this Liquidation Trust Agreement.

In addition, the Beneficiaries, acting jointly, with the approval of the Governments, may remove the Liquidation Trustee, at any time, with or without cause, by joint written notice, without the requirement to obtain Bankruptcy Court or other judicial approval to effect such joint removal.

Unless the Bankruptcy Court orders immediate removal or the joint written notice of the Beneficiaries removing the Liquidation Trustee specifies immediate removal, the Liquidation Trustee shall continue to serve until a successor Liquidation Trustee is appointed, and such appointment becomes effective, in accordance with Section 5.4 hereof. If the Liquidation Trustee is removed for Cause, such Liquidation Trustee shall not be entitled to any accrued but unpaid fees, expenses or other compensation under this Liquidation Trust Agreement or otherwise. If the Liquidation Trustee is removed without Cause or is unwilling or unable to serve (i) by virtue of his inability to perform his duties under this Liquidation Trust Agreement due to death, illness, or other physical or mental disability, or (ii) for any other reason whatsoever other than for Cause, subject to a final accounting, such Liquidation Trustee shall be entitled to all accrued but unpaid fees, expenses, and other compensation, to the extent incurred, arising or relating to events occurring before his removal or resignation and to any out-of-pocket expenses reasonably incurred in connection with the transfer of all powers and duties and all rights to any successor Liquidation Trustee.

#### 5.4 Appointment of Successor Liquidation Trustee.

In the event of a vacancy for any reason, the Beneficiaries, with the approval of the Governments, may designate the successor Liquidation Trustee with unanimous approval of the Beneficiaries, without further order of the Court, by providing 30 days written notice to the Debtors (or the Debtors' successors). The Debtors may waive any portion of such notice period in writing on the request of the Beneficiaries to allow the effectiveness of the appointment of the successor Liquidation Trustee by the Beneficiaries prior to the expiration of the 30-day period. If the Beneficiaries fail or refuse to designate a successor by unanimous approval within 30 days after the occurrence of such vacancy or the Governments fail to approve the designated successor the Bankruptcy Court shall be vested with final authority to appoint the successor Liquidation Trustee consistent with the best interests of the Beneficiaries of the Liquidation Trust upon motion by any of the Beneficiaries. No successor Liquidation Trustee shall in any event have any liability or responsibility for the acts or omissions of any of his or her predecessors. Every successor Liquidation Trustee shall execute, acknowledge and file with the Bankruptcy Court an instrument in writing accepting such appointment hereunder, and thereupon such successor Liquidation Trustee, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of his or her predecessor.

#### 5.5 Continuity.

The death, resignation or removal of the Liquidation Trustee shall not terminate the Liquidation Trust or revoke any existing agency created by the Liquidation Trustee (other than any agency of such Liquidation Trustee as a Liquidation Trustee) created pursuant to the Liquidation Trust Agreement or invalidate any action theretofore taken by the Liquidation Trustee, and the successor Liquidation Trustee agrees that the provisions of the Liquidation Trust Agreement shall be binding on and inure to the benefit of each successor Liquidation Trustee and all his heirs and legal and personal representatives, successors or assigns. In the event of the resignation or removal of the Liquidation Trustee, such Liquidation Trustee shall (a) execute and deliver by the effective date of his resignation or removal such documents, instruments and other writings as may be reasonably required to effect the termination of such Liquidation Trustee's capacity under this Liquidation Trust Agreement and (b) assist and cooperate in effecting the assumption of such Liquidation Trustee's obligations and functions by the successor Liquidation Trustee. If, for any reason, the Liquidation Trustee fails to execute the documents described in clause (a) of the preceding sentence, the Bankruptcy Court may enter such orders as are necessary to effect termination of such Liquidation Trustee's capacity under this Liquidation Trust Agreement.

#### 5.6 Compensation.

The Liquidation Trustee shall be compensated Fifteen Thousand and No/100 Dollars (\$15,000.00) per month payable monthly and shall receive reimbursement of reasonable out-of-pocket expenses incurred, including without limitation travel and lodging expense incurred in connection with his services. Any Trust Professionals and any agents retained or utilized by the Liquidation Trustee shall be entitled to reasonable compensation for services rendered and reimbursement of reasonable out-of-pocket expenses incurred, including without limitation travel and lodging expense incurred in connection with their services, except that services provided to the Liquidation Trust by The Claro Group at the request of the Liquidation Trustee shall be provided



as part of the Liquidation Trustee's monthly compensation. In addition, the Liquidation Trustee shall have the right to request a discretionary performance bonus at the termination of the Liquidating Trust (or if earlier, at the termination of his service as the Liquidation Trustee), to be payable as part of the Liquidation Trustee's compensation, to be payable only with the consent of both of the Beneficiaries. Compensation of the Liquidation Trustee and the Trust Professionals shall be paid out of the Wind-Down Reserve Account. The payment of the fees and expenses of the Liquidation Trustee and his agents, financial advisors, attorneys, consultants, independent contractors, representatives and other Trust Professionals shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court. Any successor Liquidation Trustee shall receive such reasonable compensation and reimbursement of expenses in the same manner as the initial Liquidation Trustee.

#### 5.7 Exculpation.

Except as otherwise provided in the Environmental Settlement Agreement (Section V.I Liability and Exculpation and Section IX Covenants Reservations and Other Terms), with respect to fraud and willful misconduct, the Liquidation Trust Parties are exculpated by all persons, including without limitation, holders of claims and other parties in interest, of and from any and all claims, causes of action and other assertions of liability arising out of the ownership of Liquidation Trust Acquired Assets and the discharge of the powers and duties conferred upon the Liquidation Trust and/or Trustee by the Environmental Settlement Agreement or any order of court entered pursuant to or in furtherance of the Environmental Settlement Agreement, or applicable law or otherwise. No person, including without limitation, holders of claims and other parties in interest, will be allowed to pursue any claims or cause of action against any Liquidation Trust Party (other than the Debtors) for any claim against the Debtors or PHI, for making payments in accordance with the Environmental Settlement Agreement or any order of court, or for implementing the provisions of the Environmental Settlement Agreement or any order of court. Nothing in this Paragraph or the Environmental Settlement Agreement shall preclude any of the Liquidation Trust Parties from enforcing the terms of the Environmental Settlement Agreement against any others of the Liquidation Trust Parties.

#### 5.8 Indemnification.

Except as otherwise provided in the Environmental Settlement Agreement (Section V.I Liability and Exculpation), the Liquidation Trust shall indemnify and hold harmless the Liquidation Trustee, the Trust Professionals, the Debtors, the Beneficiaries and the Governments (together with their respective officers, directors, employees, successors and assigns, collectively, the "**Liquidation Trust Parties**"), from and against and with respect to any and all liabilities, losses, damages, claims, reasonable costs and expenses, including, but not limited to, reasonable attorneys' fees, arising out of or due to their actions or omissions, or consequences of such actions or omissions, with respect to the Liquidation Trust Agreement or the implementation or administration of the Environmental Settlement Agreement, if the Liquidation Trust Parties acted in good faith without fraud or willful misconduct, and in a manner reasonably believed to be in or not opposed to the best interests of the Beneficiaries. To the extent the Liquidation Trust indemnifies and holds harmless the Liquidation Trust Parties as provided above, the reasonable legal fees and related costs incurred by counsel to the Liquidation Trustee in monitoring and participating in the defense of the claims giving rise to the right of indemnification shall be paid

from the Liquidation Trust Acquired Assets. Notwithstanding the foregoing, to the extent fraud or willful misconduct of any Liquidation Trust Party is alleged and the Court finds, by a final order, not reversed on appeal, that such Liquidation Trust Party committed fraud or willful misconduct, after the Closing Date in relation to the Liquidation Trustee's duties, there shall be no indemnification of that Liquidation Trust Party, for any judgments arising from such allegations of fraud, or willful misconduct. It shall be an irrebuttable presumption that any action taken, or inaction, consistent with Court approval shall not constitute willful misconduct or fraud, provided that there has been no misrepresentation to the Court.

#### 5.9 Insurance.

Subject to and in accordance with the approved budget, the Liquidation Trustee is authorized to obtain all reasonably necessary insurance coverage for himself and all the Trust Professionals, including, but not limited to, coverage with respect to (i) any property that is or may in the future become the property of the Liquidation Trust, and (ii) the liabilities, duties and obligations of the Liquidation Trustee and the Trust Professionals (in the form of an errors and omissions policy or otherwise), the latter of which insurance coverage may, at the sole option of the Liquidation Trustee, remain in effect for a reasonable period after the conclusion of the Liquidation Trustee's service.

#### 5.10 Bond and Affidavit of No Conflicts.

As a condition to qualifying as Liquidation Trustee hereunder, the Liquidation Trustee shall obtain a bond payable to the Liquidation Trust in the amount of \$10 million and shall maintain a bond in the amount of 2 times cash on hand until the Trust is dissolved, all cash and assets have been disbursed, and the Liquidation Trustee has concluded his duties and obligations hereunder. In addition, the Liquidation Trustee shall file with the Bankruptcy Court an affidavit disclosing any connections with the Lender Parties, the Governments and the Debtors, and certifying that he has no conflicts of interest.

#### 5.11 Reliance by Liquidation Trustee.

The Liquidation Trust Parties may rely conclusively on, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties; (b) the Liquidation Trust Parties may, on behalf of the Liquidation Trust or on their own behalf in their capacity as Liquidation Trust Parties, consult with legal counsel, financial or accounting advisors and other professionals and shall not be personally liable for any action taken or not taken in accordance with the advice thereof; and (c) persons and entities dealing with the Liquidation Trust Parties shall look only to the Liquidation Trust Acquired Assets that may be available to them consistent with the Environmental Settlement Agreement to satisfy any liability incurred by the Liquidation Trust Parties to such person in carrying out the terms of the Environmental Settlement Agreement or any order of the Court, and the Liquidation Trust Parties shall have no personal obligations to satisfy any such liability.

5.12 Reliance by Persons Dealing with the Liquidation Trustee.

In the absence of actual knowledge to the contrary, any person dealing with the Liquidation Trustee shall be entitled to rely on the authority of the Liquidation Trustee to act on behalf of the Liquidation Trust and shall have no obligation to inquire into the existence of such authority.

5.13 Exculpatory Provisions and Survival Thereof.

Whether or not expressly therein so provided, any and all exculpatory provisions, immunities and indemnities, and any limitations and negations of liability contained in this Agreement, in each case inuring to the benefit of the Liquidation Trustee, shall survive (a) the termination or revocation of this Agreement, and (b) as to any person who has served as Liquidation Trustee, the resignation or removal of such person as Liquidation Trustee.

ARTICLE VI  
BENEFICIARIES

6.1 Interest Beneficial Only.

The ownership of a beneficial interest in the Liquidation Trust shall not entitle any Beneficiary under the Liquidation Trust to any title in or to the Liquidation Trust Acquired Assets or to any right to call for a partition or division of the Liquidation Trust Acquired Assets or to require an accounting, except as specifically provided by this Liquidation Trust Agreement.

6.2 Evidence of Beneficial Interest.

Ownership of a beneficial interest in the Liquidation Trust Acquired Assets shall not be evidenced by any certificate, security or receipt or in any other form or manner whatsoever, except as maintained on the books and records of the Liquidation Trust by the Liquidation Trustee.

6.3 Registration of Beneficial Interest.

The Liquidation Trustee shall cause the Liquidation Register to be kept at his office or at such other place or places as may be designated by the Liquidation Trustee from time to time. The Liquidation Register shall reflect the ownership of the beneficial interests of the Beneficiaries.

6.4 Absolute Owners.

The Liquidation Trustee may deem and treat the Beneficiaries reflected as the owner of a beneficial interest on the Liquidation Register as the absolute owner thereof for the purposes of receiving distributions and payments on account thereof for federal and state income tax purposes and for all other purposes whatsoever.

6.5 Standing of Beneficiary.

Except as expressly provided in the Liquidation Trust Agreement, the Environmental Settlement Agreement or the Approval Order, a Beneficiary does not have standing to direct the Liquidation Trustee to do or not to do any act or to institute any action or proceeding at law or in

equity against any party (other than the Liquidation Trustee) upon or with respect to the Liquidation Trust Acquired Assets. Nothing herein shall be deemed to preclude any party to the Environmental Settlement Agreement from enforcing its rights thereunder.

#### 6.6 Non-Transferability.

Beneficial interests in the Liquidation Trust shall not be subject to assignment or alienation, either voluntary or involuntary, other than by operation of law. A Beneficiary shall not be entitled to sell, assign, exchange, pledge or otherwise transfer or convey its beneficial interest in the Liquidation Trust or any right or interest therein.

#### 6.7 Creditors Must Provide Identifying Information.

In order to receive distributions, upon the Liquidation Trustee's written request, all Beneficiaries shall be required to provide to the Liquidation Trustee, at his address provided herein, a notice identifying such Beneficiary's name, address, federal tax identification number, and any other information requested by the Liquidation Trustee to facilitate the filing of tax returns.

#### 6.8 Beneficiary Addresses.

The Liquidation Trustee shall address all correspondence to Beneficiaries to their respective addresses set forth herein or provided pursuant to the provisions of Section 8.9.

### ARTICLE VII TAXES

#### 7.1 Income Tax Status.

Consistent with the Revenue Procedure 94-45, 1994-28 I.E. 124, the Liquidation Trust shall be treated as a Liquidation trust pursuant to the Treasury Regulation Section 301.7701-4(d) and as a grantor trust pursuant to Sections 671-677 of the Internal Revenue Code. All items of income, deductions and credit loss of the Liquidation Trust shall be allocated for federal income tax purposes to the Beneficiaries based on their interest in the Liquidation Trust, in such manner as the Liquidation Trustee deems reasonable and appropriate. The Liquidation Trustee will consistently value the Liquidation Trust Acquired Assets and such valuation will be used for all federal income tax purposes by the Liquidation Trust.

#### 7.2 Tax Returns.

The Liquidation Trustee shall make such timely filing with the Internal Revenue Service, other taxing authorities, the Debtors and the Beneficiaries as required under Treas. Reg. § 1.671-4 or other applicable law.

#### 7.3 Withholding of Taxes Related to Liquidation Trust Operations.

To the extent that the operation of the Liquidation Trust or the liquidation of the Liquidation Trust Acquired Assets creates a tax liability in excess of applicable net operating

losses, the Liquidation Trust shall promptly pay such tax liability and any such payment shall be considered a cost and expense of the operation of the Liquidation Trust payable from the Liquidation Trust Acquired Assets. The Liquidation Trustee may reserve a sum, the amount of which shall be determined by the Liquidation Trustee in his sole discretion, sufficient to pay any accrued or potential tax liability of the Liquidation Trust. In the exercise of his discretion and judgment, the Liquidation Trustee may enter into agreements with taxing authorities or other governmental units settling, compromising, or otherwise establishing the amount of any tax liability of the Liquidation Trust. The foregoing notwithstanding, consistent with its status as a grantor trust, the Beneficiaries shall be responsible for the payment of federal income taxes on their allocable portion of any taxable income of the Liquidation Trust.

## ARTICLE VIII MISCELLANEOUS PROVISIONS

### 8.1 Descriptive Headings.

The headings contained in this Liquidation Trust Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Liquidation Trust Agreement.

### 8.2 Amendment.

This Liquidation Trust Agreement may not be amended except by an instrument executed by the Liquidation Trustee, with the written approval of the Beneficiaries and the Governments, and approval of the Bankruptcy Court following the Closing Date.

### 8.3 Governing Law.

This Liquidation Trust Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi and applicable federal law without regard to the rules of conflict of laws of the State of Mississippi or any other jurisdiction.

### 8.4 Counterparts; Effectiveness.

This Liquidation Trust Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. This Liquidation Trust Agreement shall become effective when each party hereto shall have received counterparts thereof signed by all the other parties hereto.

### 8.5 Severability; Validity.

If any provision of this Liquidation Trust Agreement or the application thereof to any person or circumstance is held invalid or unenforceable, the remainder of this Liquidation Trust Agreement, and the application of such provision to other persons or circumstances, shall not be affected thereby, and to such end, the provisions of this Liquidation Trust Agreement are agreed to be severable.

8.6 No Waiver by Liquidation Trustee.

No failure by the Liquidation Trustee to exercise or delay in exercising any right, power or privilege hereunder shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any further exercise thereof, or of any other right, power or privilege.

8.7 Prevailing Party.

If the Liquidation Trust is the prevailing party in a dispute regarding the provisions of this Liquidation Trust Agreement or the enforcement thereof, the Liquidation Trust shall be entitled to collect any and all costs, expenses and fees, including attorneys' fees, from the non-prevailing party incurred in connection with such dispute or enforcement action (except that the Governments are not responsible for such costs, expenses and fees).

8.8 No Bond.

Notwithstanding any state law to the contrary, except as required under Section 5.10 above, the Liquidation Trustee (including any successor Liquidation Trustee) shall be exempt from giving any bond or other security in any jurisdiction.

8.9 Notices.

Any notice or other communication hereunder shall be in writing and shall be deemed given upon (a) electronic confirmation of receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand, or (c) the expiration of five (5) Business Days after the day when mailed by registered or certified mail (postage prepaid, return receipt requested), addressed to the respective parties at the following addresses (or such other address for a party as shall be specified by like notice):

*If the Liquidation Trustee, to:*

Robert E Ogle, Liquidation Trustee  
c/o The Claro Group, LLC  
1221 McKinney Street  
Suite 2850  
Houston, TX 77010  
Direct: (281) 652 5435  
Mobile: (713) 412 1304  
Fax: (713) 236 0033  
bogle@thecларogroup.com

*With a copy to:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



*If to the Lender Parties to:*

Marc Sole  
STUW, LLC  
777 Third Avenue, 30<sup>th</sup> Floor,  
New York, NY 10017

*With a copy to:*

Lenard M. Parkins, Esq.  
Haynes and Boone, LLP  
1221 McKinney Street, Suite 2100  
Houston, TX 77010  
Direct: (713) 547-2008  
Mobile: (713) 542-7225  
lenard.parkins@haynesboone.com

*If to the Environmental Trust to:*

Roberto Puga  
Project Navigator Ltd.  
One Pointe Drive, Suite 320  
Brea, CA 92821

*With a copy to:*

Mary W. Koks  
Munsch Hardt Kopf & Harr PC  
700 Milam Street, Suite 2700  
Houston, TX 77002-2806  
Office: 713.222.1470  
Direct: 713.222.4030  
Email: mkoks@munsch.com

*If to the United States of America (on  
behalf of EPA):*

Chief, Environmental Enforcement  
Section  
Environment and Natural Resources  
Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
Telephone: (202) 514-2840  
Facsimile: (202) 616-6584

File Ref. No. 90-7-1-08388/18

Joan Redleaf-Durbin  
Associate Regional Counsel  
U.S. EPA, Region 4  
Office of Regional Counsel (C-14J)  
SNAFC, 13th Floor  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
Telephone: (404) 562-9544  
Facsimile: (404)  
E-mail: redleaf-durbin.joan@epa.gov

Alan Annicella  
Project Manager  
United States Environmental Protection  
Agency, Region 4  
SNAFC, 13th Floor  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8960  
(404) 562-8610  
Annicella.alan@epa.gov

*If to the Mississippi Department of  
Environmental Quality:*

Christopher G. Wells  
Chief of Staff  
Mississippi Department of Environmental  
Quality  
P.O. Box 2261  
Jackson, MS 39225  
Telephone: 601-961-5545  
Email: Chris\_Wells@deq.state.ms.us

Roy Furrh  
General Counsel  
Mississippi Department of Environmental  
Quality  
P.O. Box 2261  
Jackson, MS 39225  
Telephone: 601-961-5260  
Email: Roy\_Furrh@deq.state.ms.us

Rick Sumrall  
Environmental Compliance and  
Enforcement Division  
Mississippi Department of Environmental  
Quality  
P.O. Box 2261  
Jackson, MS 39225  
Telephone: 601-961-5791  
Email: Rick\_Sumrall@deq.state.ms.us

*If to the Debtors:*

Jon Nash, Chief Restructuring Officer  
100 Webster Circle, Suite 4  
Madison, MS 39110

8.10 Irrevocability.

The Liquidation Trust is irrevocable.

8.11 Relationship to Environmental Settlement Agreement.

The Liquidation Trustee shall have full power and authority to take any action consistent with the purposes and provisions of the Environmental Settlement Agreement. However, in the event that the provisions of this Liquidation Trust Agreement are found to be inconsistent with the provisions of the Environmental Settlement Agreement, the provisions of the Environmental Settlement Agreement shall control.

8.12 Status of the Parties.

Neither the Governments, the Beneficiaries, PHI, nor any of the Debtors shall be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the Liquidation Trust, or to be an owner or operator of the Liquidation Trust Acquired Assets on account of the Environmental Settlement Agreement or actions contemplated thereby. In no event shall the Governments, the Beneficiaries, PHI, or any of the Debtors have any responsibility for paying any expenses, fees and other obligations of the Liquidation Trust, and in no event shall the Liquidation Trust or the Liquidation Trustee, or any of their agents, representatives or professionals have recourse to the Governments, the Beneficiaries, PHI, or any of the Debtors therefor.

8.13 Cooperation

- (a) The Liquidation Trust and Liquidation Trustee shall take such actions and execute such documents as are reasonably requested by Debtors and Beneficiaries with respect to effectuating the Environmental Settlement Agreement and the transactions contemplated thereby, provided that such

actions are not inconsistent with this Liquidation Trust Agreement or the Environmental Settlement Agreement. To the extent that the Debtors request the Liquidation Trust and/or the Liquidation Trustee to take such an action, the Liquidation Trust and Liquidation Trustee shall do so at the sole expense of the Debtors.

- (b) The Liquidation Trustee shall cooperate with the Environmental Trustee to accomplish the respective objectives of the Environmental Trust and the Liquidation Trust.

#### 8.14 Consistency of Agreements and Construction

To the extent reasonably possible, the provisions of this Liquidation Trust Agreement shall be interpreted in a manner consistent with the Environmental Settlement Agreement. Where the provisions of this Agreement are irreconcilable with the provisions of the Environmental Settlement Agreement, the provisions of the Environmental Settlement Agreement shall prevail.

#### 8.15 Retention of Jurisdiction.

As provided in the Environmental Settlement Agreement, the Bankruptcy Court shall retain jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Environmental Settlement Agreement, including, but not limited to, interpreting and implementing the provisions of this Liquidation Trust Agreement.

#### 8.16 Successors or Assigns.

The terms of the Liquidation Trust Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective heirs, successors and assigns.

**IN WITNESS WHEREOF**, the parties hereto have either executed and acknowledged this Liquidation Trust Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized representatives all as of the date first above written.

*[Signature Pages Follow]*

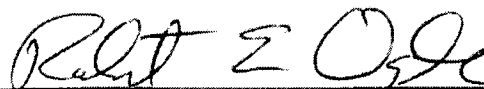
Exhibit A

**THE LIQUIDATION TRUSTEE:**

Date:

7/24/2015

**LIQUIDATION TRUSTEE**

A handwritten signature in black ink, appearing to read "Robert E. Ogle", written over a horizontal line.

Robert E. Ogle, solely in his representative capacity as  
Liquidation Trustee  
c/o The Claro Group, LLC  
1221 McKinney Street  
Suite 2850  
Houston, TX 77010




Exhibit A

**FOR THE LENDER PARTIES:**

**LENDER PARTIES**


**STUW LLC,**  
as Agent for the Lenders

Date: \_\_\_\_\_

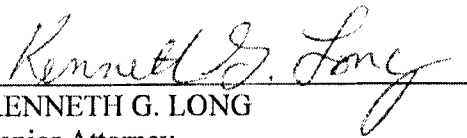
By:  \_\_\_\_\_  
MARC SOLE  
Manager  
777 Third Avenue, 30<sup>th</sup> Floor,  
New York, NY 10017

**FOR THE UNITED STATES OF AMERICA:**


Date: 7/15/15

By:   
BRUCE S. GELBER  
Deputy Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

Date: 7/24/15

By:   
KENNETH G. LONG  
Senior Attorney  
D.C. Bar no. 414791  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044

Date: 7/24/15

By:   
ALAN S. TENENBAUM  
National Bankruptcy Coordinator  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044

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Exhibit A

**FOR THE STATE OF MISSISSIPPI ON BEHALF OF THE MISSISSIPPI  
DEPARTMENT OF ENVIRONMENTAL QUALITY:**

Date: 7/28/15

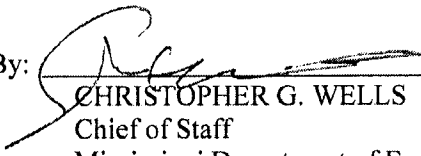

By:   
CHRISTOPHER G. WELLS  
Chief of Staff  
Mississippi Department of Environmental Quality  
P.O. Box 2261  
Jackson, MS 39225  
Telephone: 601-961-5545  
Email: [chris\\_wells@deq.state.ms.us](mailto:chris_wells@deq.state.ms.us)

Exhibit A

**FOR THE ENVIRONMENTAL TRUSTEE:**

**ENVIRONMENTAL TRUSTEE**

Date: 7/24/15

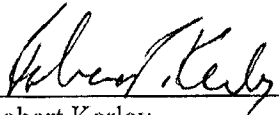
By:   
ROBERTO PUGA  
Principal of Project Navigator, Ltd.  
Solely in its Capacity as Trustee of the MPC  
Environmental Trust  
One Pointe Drive, Suite 320  
Brea, CA 92821



**FOR THE DEBTORS**

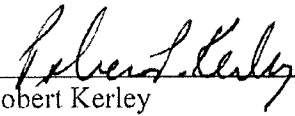
**MISSISSIPPI PHOSPHATES CORPORATION**

Date: 8-4-15

By:   
Robert Kerley  
Chief Financial Officer


**AMMONIA TANK SUBSIDIARY, INC.**

Date: 8-4-15

By:   
Robert Kerley  
Chief Financial Officer

**SULFURIC ACID TANKS SUBSIDIARY, INC.**

Date: 8-4-15

By:   
Robert Kerley  
Chief Financial Officer

## EXHIBIT A

### Distribution Schedule

#### A. Distribution of Proceeds of Liquidation Trust Assets Prior to the Closure of Trust All-Asset Sale

Upon the sale of any Liquidation Trust Acquired Assets or the receipt of any net income before a Trust All-Asset Sale closes, the Liquidation Trust shall first pay all costs associated with such sale including any broker and legal fees and related closing costs and fully fund the Wind-Down Reserve Account (defined below) and any necessary reserves for administrative costs, as provided in the Liquidation Trust Agreement. After all of the forgoing has been paid, all remaining proceeds from the sale of property (the “*Net Proceeds*”) shall be distributed as follows:

*first*, to the Agent in the full amount of the outstanding DIP/Exit Obligations.

*second*, to the Reimbursement Escrow Account until such account has received an aggregate amount of \$6,000,000 in funding from all sources to be held in escrow until distributed pursuant to Paragraph 34 of the Environmental Settlement Trust.

*third*, with respect to proceeds attributable to the sale of personal property identified by the Lenders on attachment A to this Exhibit A and sold apart from the real property, the first \$2,500,000 of such Net Proceeds to the Lender Parties.

*fourth*, 40% of the remaining proceeds to the Environmental Trust; and the balance of the remaining proceeds to the Agent until the Agent has received \$45,000,000 with respect to the Agent Secured Claim.

*fifth*, 85% of the remaining proceeds to the Environmental Trust until such time until the Environmental Trust has met the Financial Assurance Threshold and the balance to the Agent until the Agent Secured Claim has been paid in full.

*sixth*, all remaining proceeds to the Bankruptcy Estates or any successor entity to be distributed as Excess Proceeds.

#### B. Distribution of Proceeds of Liquidation Trust Assets upon the Closure of a Trust All-Asset Sale

In the event the Liquidation Trust and Environmental Trust consummate a Trust All-Asset Sale, the proceeds of such sale, or any subsequent sale, shall be distributed as follows:

*first*, to the Agent in the full amount of the DIP/Exit Obligations;

*second*, to the Reimbursement Escrow Account until such account has received an aggregate amount of \$6,000,000 in funding from all sources to be held in escrow until distributed pursuant to paragraph 34 of the Environmental Settlement Agreement;

*third*, to the Environmental Wind-Down Reserve Account if then existing as necessary to pay expenses and wind down the Environmental Trust up to the maximum amount of \$50,000;

*fourth*, all remaining proceeds to the Agent until the Agent has received full payment of the Agent Secured Claim; and

*fifth*, all remaining proceeds to the Bankruptcy Estates or any successor entity to be distributed as Excess Proceeds.

C. Modifications of Distributions

Notwithstanding anything to the contrary herein, the above distributions shall be deemed amended upon the occurrence of any of the following events:

Upon the Agent's receipt of the full amount of the Agent Secured Claim (excluding any proceeds received on account of the DIP/Exit Obligations), all remaining proceeds shall be paid to the Environmental Trust.

Upon the Environmental Trust's receipt of the full amount of the Financial Assurance Threshold, all remaining proceeds shall be paid to the Agent.

Upon both the Agent's receipt of the full amount of the Agent Secured Claim (excluding any proceeds received on account of the DIP/Exit Obligations) and the Environmental Trust's receipt of the full amount of the Financial Assurance Threshold, all remaining proceeds (the "***Excess Proceeds***") shall be distributed to the Debtors' estates or any successor and be considered Excess BP Proceeds subject to the procedures for such proceeds set forth in the Committee Settlement.

*Attachment A*

## to EXHIBIT A

Personal Property

<u>Acquisition Date</u>	<u>Personal Property Description</u>
Numerous	All vehicles and rolling stock (except for the vehicles and rolling stock on Schedule A-1 Hereto)
5/1/2010	Process Air Flow #2 SA DT
5/1/2010	Rebuild portions of #2 SA FAT
5/1/2010	60 foot Manlift
6/1/2010	Sulfur Transfer line S Pit to Tank 503
6/1/2010	Portable Air conditioning
6/30/2010	Re-Tube #3 SAP #2 Waste Heat Boiler
8/1/2010	Filter Housing on Main Blower #2 SAP
8/1/2010	#2 SAP crossflow & product pip with lined
8/1/2010	Conveyor Belt Scale in DAP Load Out
8/1/2010	DAP Product Elevator Chain
8/1/2010	SAP Cooling Tower Motor
8/1/2010	Re-tube #3 SAP #2 WHB
8/1/2010	50 HP Nissan Outboard Motor
9/1/2010	Retube Acid Cooler #2 SA Interstage Absorbing Towe
9/1/2010	Radar Level Monitoring Sys at SA Storage Tanks
9/1/2010	Cooling Water Line Dap
9/1/2010	Gas Leak Blower System
9/1/2010	Retube Interstage Acid Cooler #3 SAP
9/1/2010	Motor Phos Acid Hotwell Pumps
11/1/2010	Interstage cooler #2 SA
11/1/2010	Electric drive inverter
11/1/2010	Gas leak blower system
11/1/2010	Gas leak blower system #3 SA
11/1/2010	Reline #4 vaccum cooler phos acid
11/15/2010	NH3 Supply Pipe to DAP
11/15/2010	Anodic Protec Systems SA #2
11/15/2010	DAP Primary Scrubber Dowleg
11/15/2010	#3 SA FAT Pump Tank
11/15/2010	Fiberglass at DAP
11/15/2010	drive area on DAP rotary cooler
11/15/2010	1st pass converter # SA converter
11/15/2010	tube sheet adapters #3 SA
11/15/2010	candlestick mist eliminator #3 SA
11/15/2010	#3 SA pipe with teflon pipe
11/15/2010	expansion joints #3 SA
11/30/2010	#3 Digester Phos Acid
12/1/2010	Increase Digester Rate at Phos Acid
12/1/2010	rubber lining #1 Evaporator Phos

12/1/2010	Rebuild upper section of #3 SAP FAT
12/1/2010	Digging Legs for Dock Rock Unloading
12/1/2010	#3 Evap pad and feed containment phos
12/1/2010	#4 Evap pad and feed containment phos
12/1/2010	ENU sumps at SA plants
3/1/2011	Main Steam Turbine Componets SA#3
3/1/2011	DAP Primary Scrubber Downleg
3/1/2011	Recondition Steel Tires on DAP Rotary Dryer
4/1/2011	Purchase Spare Hotwell Pump
4/1/2011	two plasma cutters
4/1/2011	Cooling Tower Fan Blades and Hub
5/1/2011	Instrument Air Dryers
5/1/2011	Purchase Analytical Balance, cover and table
6/1/2011	Main Steam Turbine
6/1/2011	Anodic Protection SA#3
6/1/2011	Horizontal Cooler Fab and Installation
6/1/2011	Spare Bearing Housing Elliott Compressors
6/1/2011	B Exchanger and Install Conc Duct
6/1/2011	lining #3 Vacuum Cooler Phos Acid
6/1/2011	#2 Interstage Tower Final Pump Tank
9/30/2011	Horizontal Cooler Additional Cost
9/30/2011	Instrument Air Dryers Additional Cost
9/30/2011	Two Phosphoric Acid Replacement Evaporator Heat EX
9/30/2011	Replacement Condensate Line from Phos
9/30/2011	Reline #4 Vapor Head Phos Separator
9/30/2011	Spare Parts NH3 Pumps at Storage
11/1/2011	Caustic Addition system pH control cooling H2O DAP
11/1/2011	Install AT-112 Bypass Line
11/1/2011	Marble Pump #1 Digester Phos Acid
11/1/2011	Re-Tube Auxillary Boiler Econmomizer Unit
11/1/2011	"B" Exchanger Add Concentric Duct #3
11/1/2011	#1 & #2 WHB Vesibules
11/1/2011	River Water Booster Pump
11/1/2011	interstage Tower Pump tank
11/1/2011	Catonic & Anionic Resin 3 Demineralizers
11/1/2011	Phos Acid Clarifier Rake
11/1/2011	North Tire Granulator
11/1/2011	2 Converter Nozzles, Transistions etc
11/1/2011	#1 Entrainment Separator Duct at PA
11/1/2011	4 Plant Vehicles
11/1/2011	2 Computer Servers
12/1/2011	Steam header to sulfur storage
12/1/2011	Retube IAT Cooler #3
12/31/2011	SA turbine
12/31/2011	Retube FAT cooler
1/1/2012	Replace a 275 ft section of track #6
1/1/2012	Ammonia Let Down Line
2/29/2012	Drum in North Rock Unloading Crane Boom

4/30/2012	Capture Analysis of First Flush Storm Water
4/30/2012	Retube Spare IAT Cooler
4/30/2012	Purchase and Install New Motor for #2 Komatsu
5/31/2012	Motor for #119 Dozer
6/30/2012	Spare Granulator/Cooler Ring DAP
8/1/2012	BLOWER WHEEL/SHAFT FOR MAIN BLOWER AT SA PLANT
8/1/2012	FOUR PLANT VEHICLES 2012 - #3
9/1/2012	STEIN M2 MILL
9/1/2012	FRONT END LOADER FOR ROCK GRINDING
10/1/2012	No. 4 DAP Bulk Storage
10/1/2012	SULFUR TANK 503
10/1/2012	SAP#2 IAT DISTRIBUTION TROUGHS
12/1/2012	SAP Caustic Tank Overhaul
12/1/2012	Phos Acid Hydroblast Unit
12/1/2012	Automated Oil Removal from IR Compressor Area
1/1/2013	Condensate Collection System - Phos Acid Evaporators
1/1/2013	Retube Drying Tower Cooler
3/1/2013	North Dock Access Runway
4/1/2013	North Dock Fender Systems Repairs
4/1/2013	Outfall Dilution
5/1/2013	#2 SAP Converter Access Platform
8/1/2013	DAP Cooler Riding Ring (North Tire)
10/1/2013	Construct and Secure New Hazardous Waste Storage Shed
3/1/2014	Sound Velocity & Temperature Transducer
4/1/2014	Interstage Absorbion Tower #2 SAP
8/1/2014	Vacuum Truck
10/1/2014	Replace Liners in No. 1 Rock Grinding Mill

### Schedule A-1

<b>Dozers</b>
Komatsu D41P S/N B21050
John Deere 700
<b>Trackhoe</b>
#2 Komatsu PC300LC-6
#3 Komatsu PC300LC-7EO
#4 Komatsu PC300LC-7EO
#5 Komatsu PC300LC-7EO
<b>Miscellaneous</b>
2006 Chevy 1500
2001 Ford F450
2006 Ford F150
2001 Chevy 1500
1999 GMC 6500
1987 Ford LT900
Kubota RTV