

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. CROIX, VIRGIN ISLANDS**

In re:)	
)	
HOVENSA L.L.C.,)	Chapter 11
)	
Debtor.)	Case No. 1:15-bk-10003-MFW
)	
)	Re: Docket No. 467

**PLAN SUPPLEMENT TO DEBTOR’S PLAN OF LIQUIDATION
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

The above-captioned debtor and debtor-in-possession (the “Debtor”) submits this plan supplement (this “Plan Supplement”) in support of, and in accordance with, the *Debtor’s Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 467] (as may be amended, modified, or supplemented from time to time, the “Plan”). Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Plan. The documents contained in this Plan Supplement are integral to, part of, and incorporated by reference into the Plan.

This Plan Supplement includes the following documents, each as may be amended, modified, or supplemented from time to time by the Debtor in accordance with the Plan:

- **Exhibit A**: Liquidating Trust Agreement;
- **Exhibit B**: Environmental Response Trust Agreement;
- **Exhibit C**: Schedule of Liquidating Trust Insurance Policies;
- **Exhibit D**: Schedule of Environmental Response Trust Insurance Policies; and
- **Exhibit E**: Termination and Release Agreement, by and among the Debtor, the GVI, and the Virgin Islands Bureau of Internal Revenue.

The documents contained in this Plan Supplement are in substantially final form, but remain subject to continuing negotiations among the Debtor and interested parties with respect thereto. The Debtor reserves all rights to amend, modify or supplement the Plan Supplement, and any of the documents and designations contained therein, at any time before the Effective Date of the Plan, or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court. If any document contained in this Plan Supplement is amended, modified or supplemented in any material respect, the Debtor will file a redline of such document with the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that copies of the Plan and the Plan Supplement are available on the Bankruptcy Court's website at <https://ecf.vib.uscourts.gov> in accordance with the procedures and fees set forth therein, as well as free of charge on the website established by the Debtor's claims and noticing agent at <https://cases.primeclerk.com/hovensa>.

[Remainder of Page Intentionally Left Blank]

Dated: January 11, 2016
St. Thomas, U.S. Virgin Islands

/s/ Richard H. Dollison

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Exhibit A

Liquidating Trust Agreement

LIQUIDATING TRUST AGREEMENT

by and among HOVENSA, L.L.C.

[_____] as Liquidating Trustee

and [_____] as Delaware Trustee

Dated as of [_____], 2016

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This Liquidating Trust Agreement (the “Agreement”), dated as of [____], 2016, is entered into by HOVENSA, L.L.C., a limited liability company organized under the laws of the U.S. Virgin Islands, as debtor and debtor-in-possession in (the “Debtor”) in the chapter 11 case administered under the caption *In re HOVENSA, L.L.C.*, Case No. 1:15-bk-10003-MFW (the “Chapter 11 Case”), and [____], as liquidating trustee (together with any successor appointed under the terms hereof, the “Liquidating Trustee”) and [____] as the Delaware trustee (together with any successor appointed under the terms hereof, the “Delaware Trustee”, and together with the Liquidating Trustee, the “Trustees”) for the benefit of the “Beneficiaries” under the terms of the [____] *Amended Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*, dated January [____], 2016, as may be amended, modified or supplemented, the “Plan”), confirmed by the United States District Court of the Virgin Islands, Bankruptcy Division, St. Croix, Virgin Islands (the “Bankruptcy Court”) in the Chapter 11 Case by Order dated January [____], 2016 (Docket No. [____]) (the “Confirmation Order”).¹

RECITALS

WHEREAS, on September 15, 2015, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the Bankruptcy Court.

WHEREAS, the Debtor filed the *Disclosure Statement for the Debtor’s Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code* on December 17, 2015 [Docket No. 467];

WHEREAS, the Debtor filed the Plan on January [____], 2016;

WHEREAS, the Bankruptcy Court entered the Confirmation Order on January [____], 2016 and the Plan became effective on [____], 2016 (the “Effective Date”);

WHEREAS, the Liquidating Trust established pursuant to the terms of this Agreement is intended to qualify as a “grantor trust” that is a foreign trust for federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended (the “Tax Code”) with the Beneficiaries treated as grantors and owners of the Liquidating Trust. For all federal income tax purposes, all parties (including, without limitation, the Debtor, the Liquidating Trustee, and the Beneficiaries) shall treat the transfer of the Liquidating Trust Assets by the Debtor to the Liquidating Trust as a transfer of such assets by the Debtor to the Beneficiaries in proportion to their respective beneficial interest in the Liquidating Trust, followed by a transfer by such Holders to the Liquidating Trust. Thus, the Beneficiaries shall be treated as the grantors and owners of a grantor trust that is a foreign trust for federal income tax purposes.

WHEREAS, the Plan contemplates, among other things, on the Effective Date, (a) the creation of a Liquidating Trust (the “Liquidating Trust”), and (b) the Liquidating Trust will be vested with (i) the Liquidating Trust Cash Distribution; (ii) the Debtor’s rights under section 7.8 of the Purchase Agreement solely to the extent necessary for the Liquidating Trust to resolve Claims in Classes 4, 5, and 6; (iii) the Debtor’s rights with respect to any Executory Contracts or

¹ All capitalized terms used but not otherwise defined herein shall have the meaning as set forth in the Plan and such definitions are incorporated herein by reference.

Unexpired Leases identified on the Contract Assumption Schedule as being assigned to the Liquidating Trust; (iv) the Debtor's rights with respect to the Liquidating Trust Insurance Policies; and (v) the Liquidating Trust Books and Records (collectively, the "Liquidating Trust Assets"); and

WHEREAS, pursuant to the Plan, the Liquidating Trust shall be established to, among other things, administer the Liquidating Trust Assets, resolve Disputed Class 4, 5, and 6 Claims and make distributions to Holders of Allowed Class 4, 5, and 6 Claims, as provided in the Plan and Confirmation Order, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the purpose of the Liquidating Trust and the Plan.

NOW, THEREFORE, pursuant to the Plan and the Confirmation Order, in consideration of the promises, 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, it is hereby agreed as follows:

ARTICLE I AGREEMENT OF TRUST

1.1 Creation and Name. The Debtor, on its own behalf and on behalf of the Beneficiaries, the Liquidating Trustee, and the Delaware Trustee hereby constitute and create the Liquidating Trust, which is the trust provided for and referred to in Article VII of the Plan. The Liquidating Trust shall be organized and established as a statutory trust pursuant to and in accordance with Chapter 38 of Title 12 of the Delaware Code, Del. C. §§ 3801 et seq. (as the same may be amended from time to time, the "Delaware Act"), and this Agreement, together with the Plan, constitute the governing instrument of the Liquidating Trust. Pursuant to section 3810 of the Delaware Act, the Delaware Trustee shall file a certificate of trust, substantially in the form annexed hereto as Exhibit A (the "Certificate of Trust") with the Delaware Secretary of State as of the date hereof in order to form the Liquidating Trust. Effective as of the date hereof, the Liquidating Trustee shall have all the rights, powers, and duties set forth in this Agreement and the Plan, as applicable, and to the extent not inconsistent with this Agreement and the Plan, in the Delaware Act with respect to accomplishing the purpose of the Liquidating Trust as set forth below.

1.1 Name. The Liquidating Trustee may transact the business and affairs of the Liquidating Trust in the name of the "Hovensa Liquidating Trust."

1.2 Purpose. The purpose of the Liquidating Trust is to implement the provisions of the Plan and the Confirmation Order as specified as being applicable to the Liquidating Trust, and to take such lawful actions incident thereto and not in violation of the Plan, the Confirmation Order, or this Agreement. Accordingly, the primary purpose of the Liquidating Trust is to administer the Liquidating Trust Assets, resolve Disputed Class 4, 5, and 6 Claims and make distributions to Holders of Allowed Class 4, 5, and 6 Claims in accordance with the Plan, Confirmation Order, and the Liquidating Trust Agreement, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust.

1.3 Transfer of Assets. Pursuant to Article VII.C. of the Plan, upon the Effective Date, the Debtor shall irrevocably transfer, assign, and deliver to the Liquidating Trust, on behalf of the Beneficiaries, all of its rights, title, and interests in the Liquidating Trust Assets notwithstanding any prohibition on assignment under nonbankruptcy law. The Liquidating Trust will accept and hold the Liquidating Trust Assets in the Liquidating Trust for the benefit of the Beneficiaries (and with respect to the Liquidating Trust Insurance Policies, subject to the rights of the third party beneficiaries thereof), subject to the terms of the Plan and this Agreement. On the Effective Date, all Liquidating Trust Assets will vest and be deemed to vest in the Liquidating Trust in accordance with section 1141 of the Bankruptcy Code; provided, however, that the Liquidating Trustee may abandon or otherwise not accept any Liquidating Trust Assets that the Liquidating Trustee believes, in good faith, have no value to the Liquidating Trust. Any assets the Liquidating Trustee so abandons or otherwise does not accept shall not vest in the Liquidating Trust. As of the Effective Date, all Liquidating Trust Assets vested in the Liquidating Trust shall be free and clear of all Liens, Claims, and Interests, except as otherwise specifically provided in the Plan or in the Confirmation Order. Upon the transfer by the Debtor of the Liquidating Trust Assets to the Liquidating Trust or abandonment of Liquidating Trust Assets by the Liquidating Trustee, the Debtor will have no reversionary or further interest in or with respect to any Liquidating Trust Assets or the Liquidating Trust.

1.4 Privilege. In connection with the Liquidating Trust Assets, any attorney-client privilege, work-product privilege, joint interest privilege or other privilege or immunity (collectively, the "Privileges") attaching to any documents or communications (in any form, including, without limitation, written, electronic or oral) shall be transferred and shall vest in the Liquidating Trustee and his representatives. The Liquidating Trust's receipt of the Privileges associated with the Liquidating Trust Assets shall not operate as a waiver of other privileges possessed or retained by the Debtor.

1.5 Funding of the Liquidating Trust. The Liquidating Trust shall be funded on the Effective Date with the Liquidating Trust Assets, as provided for in the Plan and in the Confirmation Order.

1.6 Acceptance by the Liquidating Trustee. The Liquidating Trustee hereby accepts the trust imposed upon it by this Agreement and agrees to observe and perform that trust on and subject to the terms and conditions set forth in this Agreement, the Plan, and the Confirmation Order. In connection with and in furtherance of the purposes of the Liquidating Trust, the Liquidating Trustee hereby accepts the transfer of the Liquidating Trust Assets.

ARTICLE II THE LIQUIDATING TRUSTEE

2.1 Appointment. The Liquidating Trustee has been selected pursuant to the provisions of the Plan and has been appointed as of the Effective Date. The Liquidating Trustee's appointment shall continue until the earlier of (i) the date that the Liquidating Trust is dissolved in accordance with this Agreement and (ii) the date of the Liquidating Trustee's resignation, death, dissolution, removal or liquidation.

2.2 General Powers. Except as otherwise provided in this Agreement, the Plan, or the Confirmation Order, and subject to the oversight rights assigned to the Oversight Committee herein and in the Plan, the Liquidating Trustee may control and exercise authority over the Liquidating Trust Assets, and the acquisition, management, and disposition thereof. Nothing in this Agreement shall be deemed to prevent the Liquidating Trustee from taking, or failing to take, any action that, based upon the advice of counsel, it determines it is obligated to take (or fail to take) in the performance of any fiduciary or similar duty that the Liquidating Trustee owes to the Beneficiaries or any other Person or Entity. Any distributions to be made under the Plan from the Liquidating Trust Assets shall be made by the Liquidating Trust. The Liquidating Trustee shall have the authority to bind the Liquidating Trust within the limitations set forth herein, but shall for all purposes hereunder be acting in the capacity of Liquidating Trustee and not individually. No Person dealing with the Liquidating Trust shall be obligated to inquire into the Liquidating Trustee's authority in connection with the acquisition, management, or disposition of Liquidating Trust Assets. Without limiting the foregoing, but subject to the Plan, the Confirmation Order, and other provisions of this Agreement, the Liquidating Trustee shall be expressly authorized to, with respect to the Liquidating Trust and the Liquidating Trust Assets:

(a) Act as the liquidating trustee for the Liquidating Trust and administer the Liquidating Trust;

(b) Take any action necessary to transfer the Liquidating Trust Assets to the Liquidating Trust;

(c) Retain and compensate attorneys, advisors, and other professionals (including, without limitation, any professionals previously retained in the Chapter 11 Case) as may be necessary and appropriate to perform the duties required of, and the obligations assumed by, the Liquidating Trustee under the Plan and this Agreement without Bankruptcy Court approval;

(d) Act for the Liquidating Trust in the same fiduciary capacity as the Executive Committee had to the Debtor, subject to and limited by the provisions of the Plan and the Liquidating Trust Agreement (and all certificates of formation, membership agreements, and related documents are deemed amended by the Plan to permit and authorize the same);

(e) Exercise all power and authority that may be or could have been exercised and take all actions that may be or could have been taken solely with respect to the Liquidating Trust Assets by any officer, director, shareholder or other party acting in the name of the Debtor or its Estate with like effect as if duly authorized, exercised, and taken by action of such officers, directors, shareholders, or other party;

(f) File the Reserve Motion to establish (i) the Class 4 Claims Reserve for the benefit of Holders of Class 4 Claims, and (ii) the Class 5 Claims Reserve for the benefit of Holders of Class 5 Claims, as appropriate in the Liquidating Trustee's discretion, in each case using funds from the GUC Beneficiary Reserve in an amount to be agreed by the Committee, the Debtor, and the Liquidating Trustee, as appropriate, which amount shall be subject only to the GUC Beneficiary Reserve Carve Out as shall be set forth in the Reserve Motion;

- (g) File the Claims Procedures Motion;
- (h) Open, maintain, and administer bank accounts on behalf of or in the name of the Liquidating Trust;
- (i) Administer, sell, liquidate, or otherwise dispose of Liquidating Trust Assets in accordance with the Plan;
- (j) Receive, manage, invest, supervise, and protect the Liquidating Trust Assets, subject to the limitations provided herein;
- (k) Establish, re-evaluate, adjust, and maintain appropriate reserves, including the GUC Beneficiary Reserve, the Class 4 Claims Reserve, the Class 5 Claims Reserve, the Governmental GUC Reserve, and any Disputed Claims Reserve, as applicable, in accordance with the terms of the Plan;
- (l) Conduct an analysis of Claims in Classes 4, 5, and 6, and prosecute objections thereto or settle or otherwise compromise Claims in Classes 4, 5, and 6 if necessary and appropriate;
- (m) File and prosecute objections to, and negotiate, settle, compromise, withdraw or otherwise resolve, any and all Disputed Claims in Classes 4, 5, and 6 in any manner approved by the Bankruptcy Court;
- (n) Calculate and make the distributions on behalf of the Debtor, the Estate, and the Liquidating Trust to the Holders of Allowed Claims in Classes 4, 5, and 6 in accordance with this Agreement, the Plan, and the Confirmation Order, and take other actions consistent with the Plan and the implementation thereof;
- (o) To the extent necessary, (i) seek a determination of tax liability of the Liquidating Trust under Section 505 of the Bankruptcy Code; (ii) prepare and file any and all tax and information returns required with respect to the Liquidating Trust; (iii) make any tax elections for and on behalf of the Liquidating Trust; (iv) settle or compromise any tax liability, or consent to any claim or assessment relating to taxes, on behalf of the Liquidating Trust; (v) pay taxes, if any, payable for and on behalf of the Liquidating Trust; (vi) cause the Liquidating Trust to withhold from the amount distributable to any Person or Entity such amount as may be sufficient to pay any tax or other charge that the Liquidating Trustee has determined, based upon the advice of any one or more of its agents and professionals, may be required to be withheld therefrom under the income tax laws of the United States or of any state or political subdivision thereof, and (vii) file and prosecute any tax refund claims of the Liquidating Trust;
- (p) Represent the Debtor's Estate before the Bankruptcy Court and other courts of competent jurisdiction solely with respect to matters concerning the Liquidating Trust;
- (q) Pay all lawful expenses, debts, charges, taxes, and liabilities of the Liquidating Trust;

(r) Purchase and carry customary insurance policies, pay all insurance premiums and costs as the Liquidating Trustee deems reasonably necessary or advisable (including insurance for the protection of Entities serving as administrators and overseers of the Liquidating Trust), and request and receive reports from any insurer under the Liquidating Trust Insurance Policies regarding the payment of any proceeds of such policies;

(s) Implement, enforce, or discharge all of the terms, conditions, and all other provisions of, and all duties and obligations under, the Plan, the Confirmation Order, and this Agreement;

(t) Maintain the books and records of the Liquidating Trust, including the Liquidating Trust Books and Records;

(u) Upon the Reorganized Debtor's Filing of the Final Certification, undertake all administrative functions remaining in the Chapter 11 Case, including the preparation and filing of post-Effective Date operating reports required under the U.S. Trustee guidelines and the ultimate closing of the Chapter 11 Case;

(v) Invest the Liquidating Trust Assets transferred to the Liquidating Trust (including any earnings thereon or income therefrom) in United States Treasury bills and notes, institutional money market funds, commercial paper, time deposits and certificates of deposit with commercial banks, in each case, with a maturity of twelve (12) months or less; provided, however, that the scope of any such investments shall be limited to include only those investments permitted to be made by a "liquidating trust" within the meaning of Treas. Reg. section 301.7701-4(d) or under applicable Internal Revenue Service ("IRS") guidelines, whether set forth in IRS rulings, revenue procedures, other IRS pronouncements, or otherwise;

(w) Enter into any agreement or execute any document or instrument required by or consistent with the Plan, the Confirmation Order or this Agreement and perform all obligations thereunder;

(x) Comply with the applicable Orders of the Bankruptcy Court and any other court of competent jurisdiction over the matters set forth in the Plan, and all applicable laws and regulations concerning the matters set forth in the Plan; and

(y) Take all other actions consistent with the provisions of the Plan that the Liquidating Trustee deems reasonably necessary or desirable to administer the Liquidating Trust and the Plan.

2.3 Valuation. As soon as practicable after the Effective Date, the Liquidating Trustee, in reliance upon such professionals as the Liquidating Trustee may retain, shall make a good faith valuation (as of the Effective Date) of the Liquidating Trust Assets. Such valuation shall be made available from time to time, to the extent relevant, and used consistently by all parties (including without limitation, the Debtor, the Liquidating Trustee, the Holders of Allowed Claims in Classes 4, 5, and 6, and the Beneficiaries) for all federal income tax purposes.

2.4 Limitation of Liquidating Trustee's Authority.

(a) All power or authority of the Liquidating Trustee shall be as set forth in this Agreement, the Plan, and the Confirmation Order. Notwithstanding anything herein to the contrary, the Liquidating Trustee shall have no authority to take any action in contravention of this Agreement, the Plan, the Confirmation Order, or applicable law, or any action that would make it impossible to carry on the activities of the Liquidating Trust.

(b) For federal tax purposes, the Liquidating Trustee shall not be authorized to engage in any trade or business with respect to the Liquidating Trust Assets or any proceeds therefrom except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust. The Liquidating Trustee shall take such actions consistent with the prompt orderly liquidation of the Liquidating Trust Assets as required by applicable law and consistent with the treatment of the Liquidating Trust as a liquidating trust under Treas. Reg. section 301.7701-4(d), to the extent such actions are permitted by this Agreement. The Liquidating Trustee shall not take, or fail to take, any action that would jeopardize treatment of the Liquidating Trust as a "liquidating trust" for federal income tax purposes.

2.5 Compensation of Liquidating Trustee. Except as otherwise ordered by the Bankruptcy Court, the fees and expenses incurred by the Liquidating Trustee on or after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including attorneys' fees and expenses) made by the Liquidating Trustee (the "Fees and Expenses") shall be paid in Cash from the GUC Beneficiary Reserve without any further notice to or action, order, or approval of the Bankruptcy Court.

2.6 Retention of Professionals.

(a) The Liquidating Trustee, on behalf of the Liquidating Trust, may, but shall not be required to, from time to time enter into contracts with, consult with and retain any professional on such terms as the Liquidating Trustee deems appropriate in accordance with the terms hereof. None of the professionals that represented parties in interest in the Chapter 11 Case shall be precluded from being engaged by the Liquidating Trustee solely on account of their service as a professional for such parties in interest prior to the Effective Date.

(b) Each of the Liquidating Trustee's agents and professionals (unless any such agents or professionals and the Liquidating Trustee agree to different treatment) seeking compensation or reimbursement shall serve a statement on the Liquidating Trustee and shall be paid from GUC Beneficiary Reserve in accordance with Section 2.5 of this Agreement. The Liquidating Trustee will have ten (10) days from the date such statement is received to review the statement and object to such statement by serving an objection on the party seeking compensation setting forth the precise nature of the objection and the amount at issue. At the expiration of the ten (10) day period, and without further order of the Bankruptcy Court (except as provided herein), the Liquidating Trustee shall pay 100% of the amounts requested, except for the portion of such fees and expenses to which any objection has been made. The parties shall attempt to consensually resolve objections, if any, to any statement. If the parties are unable to reach a consensual resolution of any such objection, the party who received an objection to its

fees and expenses may seek payment of such fees and expenses by filing a motion with and obtaining an order from the Bankruptcy Court and providing notice to the Liquidating Trustee.

2.7 General Duties, Obligations, Rights, and Benefits of the Liquidating Trustee.

The Liquidating Trustee shall have all duties, obligations, rights, and benefits assumed by, assigned to, or vested in the Liquidating Trust under the Plan, the Confirmation Order, this Agreement and any other agreement entered into pursuant to or in connection with the Plan or this Agreement. Such duties, obligations, rights, and benefits include, without limitation, all duties, obligations, rights, and benefits relating to the administration of the Liquidating Trust Assets, administration and satisfaction of the Claims of Beneficiaries, distributions to Holders of Allowed Claims in Classes 4, 5, and 6, administration of the Liquidating Trust and any other duties, obligations, rights, and benefits reasonably necessary to accomplish the purpose of the Liquidating Trust under the Plan, the Confirmation Order, this Agreement, and any other agreement entered into pursuant to or in connection with the Plan or this Agreement.

2.8 Resignation/ Removal/ Replacement of the Liquidating Trustee. The

Liquidating Trustee may resign at any time upon thirty (30) days' written notice delivered to the Bankruptcy Court, provided that such resignation shall only become effective upon the appointment of a permanent or interim successor Liquidating Trustee. The Liquidating Trustee may also be removed by the Bankruptcy Court upon application and after notice and a hearing. In the event of the resignation or removal of the Liquidating Trustee, or in the event that the Liquidating Trustee dies or becomes incapacitated, a successor Liquidating Trustee shall be appointed by the Oversight Committee. Upon its appointment, the successor Liquidating Trustee, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of its predecessor, except as provided herein, and all responsibilities of the predecessor Liquidating Trustee relating to the Liquidating Trust shall be terminated. In the event the Liquidating Trustee's appointment terminates by reason of death, dissolution, liquidation, resignation, or removal, such Liquidating Trustee shall be immediately compensated for all reasonable fees and expenses accrued through the effective date of termination, whether or not previously invoiced.

2.9 Liquidating Trust Continuance. The death, dissolution, liquidation, resignation, or removal of the Liquidating Trustee shall not terminate the Liquidating Trust or revoke any existing agency created by the Liquidating Trustee pursuant to this Agreement or invalidate any action theretofore taken by the Liquidating Trustee, and the provisions of this Agreement shall be binding upon and inure to the benefit of the successor Liquidating Trustee and all of its successors or assigns.

**ARTICLE III
DELAWARE TRUSTEE**

3.1 Appointment of Delaware Trustee. The Delaware Trustee is appointed to serve as trustee of the Liquidating Trust in the State of Delaware for the sole purpose of satisfying the requirements of Section 3807(a) of the Delaware Act that the Liquidating Trust have at least one trustee with a principal place of business in the State of Delaware, or if a natural person, who is a resident of the State of Delaware. It is understood and agreed by the parties hereto that the Delaware Trustee shall have none of the duties, obligations or liabilities of any other person,

including, without limitation, the Liquidating Trustee. The Delaware Trustee shall satisfy the requirements of Section 3807(a) of the Delaware Act. The duties of the Delaware Trustee shall be limited to (a) accepting legal process served on the Liquidating Trust in the State of Delaware and (b) the execution of any certificates required to be filed with the Delaware Secretary of State which the Delaware Trustee is required to execute under Section 3811 of the Delaware Act. Except for the purpose of the foregoing sentence, the Delaware Trustee shall not be deemed a trustee, and shall have no management responsibilities or owe any fiduciary duties to the Liquidating Trust or the Beneficiaries and shall not be authorized to retain any attorneys, professionals, or advisors without the express written consent of the Liquidating Trustee.

3.2 Rights of Delaware Trustee. The Delaware Trustee shall be entitled to all of the same rights, protections, indemnities, and immunities under this Agreement and with respect to the Liquidating Trust and the Beneficiaries as the Liquidating Trustee. No amendment or waiver of any provision of this Agreement which adversely affects the Delaware Trustee shall be effective without the prior written consent of the Delaware Trustee.

3.3 Compensation of Delaware Trustee. Except as otherwise ordered by the Bankruptcy Court, the fees and expenses incurred by the Delaware Trustee on or after the Effective Date (including taxes) made by the Delaware Trustee shall be paid in Cash from GUC Beneficiary Reserve without any further notice to or action, order, or approval of the Bankruptcy Court. Prior to any payment to the Delaware Trustee, the Delaware Trustee shall submit to the Liquidating Trustee and the Oversight Committee periodic statements for all reasonable compensation for services rendered, and reimbursement for actual and necessary expenses incurred by the Delaware Trustee. The Liquidating Trustee will have twenty (20) days from the date such statement is received to review the statement, consult with the Oversight Committee with respect to such statement, and object to such statement by serving an objection on the Delaware Trustee setting forth the precise nature of the objection and the amount at issue. At the expiration of the twenty (20) day period, and without further order of the Bankruptcy Court (except as provided herein), the Liquidating Trustee shall pay 100% of the amounts requested, except for the portion of such fees and expenses to which any objection has been made. The parties shall attempt to consensually resolve objections, if any, to any statement. If the parties are unable to reach a consensual resolution of any such objection, the Delaware Trustee may seek payment of such fees and expenses by filing a motion with and obtaining an order from the Bankruptcy Court and providing notice to the Liquidating Trustee.

ARTICLE IV OVERSIGHT COMMITTEE

4.1 Oversight Committee Appointment. On or prior to the Effective Date, the Oversight Committee shall be appointed by the Committee pursuant to the terms of the Plan. The Oversight Committee Members shall include at least one member holding or representing a Trade Claim, one member holding or representing a Tort Claim, and one independent member who may be an existing Committee professional.

4.2 Duties of the Oversight Committee. The Oversight Committee shall oversee the implementation and administration of the Liquidating Trust and shall operate in accordance with

the terms set forth in the Plan and this Agreement. Specifically, the Oversight Committee shall have the following rights, obligations and duties:

- (a) approve the Liquidating Trustee's and Delaware Trustee's compensation terms;
- (b) approve the Liquidating Trustee's retention of counsel and other professionals, as well as the terms governing the engagement of such counsel and professionals, who may have been previously engaged by the Debtor and/or the Committee, and establish retainer terms, conditions and budgets;
- (c) in the event of the resignation, incapacity, or death of the Liquidating Trustee or Delaware Trustee, to appoint a successor Liquidating Trustee or Delaware Trustee;
- (d) in the event of the resignation, incapacity, or death of an Oversight Committee Member, to appoint a successor Oversight Committee Member; provided, however, that the Oversight Committee shall at all times have one member holding or representing a Tort Claim, one member holding or representing a Trade Claim, and one independent member who may be an existing committee professional;
- (e) review and approve any Claims Procedures Motion prior to the filing of same;
- (f) review and approve any settlements and agreements related to the allowance of Claims; and
- (g) Generally oversee, review and guide the Liquidating Trustee on the performance of its duties and its activities proposed and underway, as often as is necessary and appropriate to implement the Plan;

4.3 Voting. Oversight Committee decisions shall be made with the approval of at least two (2) members.

4.4 Reimbursement of Expenses. Each Oversight Committee Member shall be entitled to the reimbursement of reasonable expenses incurred in the exercise of such Oversight Committee Member's duties as set forth herein. Any disputes between and among the Oversight Committee, its Members or the Liquidating Trustee shall be resolved by the Bankruptcy Court, and the Liquidating Trustee shall bring any such dispute to the Bankruptcy Court for resolution if so requested in writing by any of such parties.

ARTICLE V LIABILITY OF TRUSTEES

5.1 Standard of Care; Exculpation. Neither the Liquidating Trustee, the Delaware Trustee, Oversight Committee Member, nor any director, officer, affiliate, employee, employer, professional, successor, assign, agent, or representative of the Trustees or Oversight Committee Members (each, an "Exculpated Party" and collectively, the "Exculpated Parties") shall be liable for any losses, claims, damages, liabilities, obligations settlements, proceedings, suits,

judgments, causes of action, litigation, actions, or investigations (whether civil or administrative and whether sounding in tort, contract, or otherwise), penalties, costs, and expenses, including reasonable fees and disbursements (collectively referred to herein as “Losses”), whether or not in connection with litigation in which any Exculpated Party is a party, or enforcing this Agreement (including these exculpation provisions), as and when imposed on the Exculpated Parties, incurred, caused by, relating to, based upon, or arising out of (directly or indirectly) the Exculpated Parties’ execution, delivery, and acceptance of, or the performance or nonperformance of its powers, duties, and obligations under, this Agreement, the Plan, or the Confirmation Order or as may arise by reason of any action, omission, or error of an Exculpated Party; provided, however, that the foregoing limitation shall not apply to any Losses suffered or incurred by any Beneficiary that are found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted from the fraud, gross negligence, or willful misconduct of such Exculpated Party. Every act taken or omitted, power exercised, or obligation assumed by the Liquidating Trust or any Exculpated Party pursuant to the provisions of this Agreement shall be held to be taken or omitted, exercised, or assumed, as the case may be, by the Trustees or any Exculpated Party acting for and on behalf of the Liquidating Trust and not otherwise; provided, however, that none of the foregoing Entities or Persons are deemed to be responsible for any other such Entities’ or Persons’ actions or inactions. Except as provided in the first proviso of the first sentence of this Section 4.1, every Person, firm, corporation, or other Entity contracting or otherwise dealing with or having any relationship with the Liquidating Trust or any Exculpated Party shall have recourse only to the Liquidating Trust Assets for payment of any liabilities or other obligations arising in connection with such contracts, dealings, or relationships and the Liquidating Trust and the Exculpated Parties shall not be individually liable therefor. Except as provided in the first proviso of the first sentence of this Section 4.1, in no event shall the an Exculpated Party be liable for indirect, punitive, special, incidental, or consequential damage or loss (including but not limited to lost profits) whatsoever, even if the Exculpated Parties have been informed of the likelihood of such loss or damages and regardless of the form of action.

5.2 Indemnification. The Liquidating Trustee, the Delaware Trustee, Oversight Committee Member, and any director, officer, affiliate, employee, employer, professional, successor, assign, agent, or representative of the Trustees or Oversight Committee Members (each, an “Indemnified Party” and collectively, the “Indemnified Parties”) shall be defended, held harmless, and indemnified from time to time by the Liquidating Trust against any and all Losses, including, without limitation, the costs for counsel or others in investigating, preparing, defending, or settling any action or Claim, whether or not in connection with litigation in which any Indemnified Party is a party, or enforcing this Agreement (including these indemnity provisions), as and when imposed on the Indemnified Parties, incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the Indemnified Parties’ execution, delivery, and acceptance of or the performance or nonperformance of its powers, duties, and obligations under this Agreement, the Plan, or the Confirmation Order or as may arise by reason of any action, omission, or error of an Indemnified Party; provided, however, such indemnity shall not apply to any such Losses to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted from the fraud, gross negligence, or willful misconduct of such Indemnified Party. Notwithstanding anything to the contrary in this Agreement, any Indemnified Party shall be entitled to obtain advances from the GUC Beneficiary Reserve to cover its reasonably anticipated expenses of defending itself in any action

threatened against or brought against it as a result of any act or omission, actual or alleged, of the Trustees in their capacities as such. Without limiting the generality or effect of the foregoing, within five (5) Business Days after a written request by an Indemnified Party to the Liquidating Trustee, the Liquidating Trustee shall, in accordance with such request, but without duplication, from the GUC Beneficiary Reserve, (a) pay such expenses on behalf of the Indemnified Party, (b) advance to the Indemnified Party Cash in amount sufficient to pay such expenses, or (c) reimburse the Indemnified Party for such expenses; provided that the Indemnified Party shall provide an undertaking to repay promptly any amounts so paid, advanced, or reimbursed from the GUC Beneficiary Reserve upon the entry of a Final Order finding that such Indemnified Party was not entitled to indemnity under this Section 4.2.

5.3 No Liability for Acts of Successor/Predecessor Trustees. Upon the appointment of a successor Liquidating Trustee or a successor Delaware Trustee and the delivery of the Liquidating Trust Assets to the successor Liquidating Trustee, the predecessor Liquidating Trustee, the predecessor Delaware Trustee, and any director, officer, affiliate, employee, employer, professional, agent, or representative of the predecessor Trustee shall have no further liability or responsibility with respect thereto. A successor Trustee shall have no duty to examine or inquire into the acts or omissions of its immediate or remote predecessor and no successor Trustee shall be in any way liable for the acts or omissions of any predecessor Trustee unless a successor Trustee expressly assumes such responsibility. A predecessor Trustee shall have no liability for the acts or omissions of any immediate or subsequent successor Trustee for any events or occurrences subsequent to the cessation of its role as Trustee.

5.4 Reliance by Trustee on Documents or Advice of Counsel. Except as otherwise provided in this Agreement, the Liquidating Trustee, the Delaware Trustee, the Oversight Committee, and any director, officer, affiliate, employee, employer, professional, agent, or representative of the Trustees or an Oversight Committee Member may rely, and shall be protected from liability for acting or failing to act, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document reasonably believed in good faith by such Trustee or Oversight Committee Member to be genuine and to have been presented by an authorized party. None of the Liquidating Trustee, the Delaware Trustee, an Oversight Committee Member, nor any director, officer, affiliate, employee, employer, professional, agent, or representative of the Trustees or Oversight Committee Members shall be liable for any action taken or omitted or suffered by the Trustees or Oversight Committee Members, in reasonable reliance upon the advice of counsel or other professionals engaged by the Trustees in accordance with this Agreement.

5.5 Insurance. The Liquidating Trustee may purchase (using Cash from the GUC Beneficiary Reserve) and carry customary insurance policies, and pay from the GUC Beneficiary Reserve all insurance premiums and costs the Liquidating Trustee deems reasonably necessary or advisable, including, without limitation, purchasing any errors and omissions insurance with regard to any Losses the Trustees or Oversight Committee Members may incur, arising out of or due to their actions or omissions, or consequences of such actions or omissions, with respect to the implementation and administration of the Plan or this Agreement. The Liquidating Trustee may also carry and pay from the GUC Beneficiary Reserve all insurance premiums and costs the Liquidating Trustee deems reasonably necessary or advisable with respect to the Liquidating Trust Insurance Policies; provided, however, that with respect to the Liquidating Trust Insurance

Policies, the Liquidating Trustee shall have the discretion to cease the payment of premiums and to abandon any Liquidating Trustee Insurance Policies the Liquidating Trustee determines to be burdensome or of no value to the Liquidating Trust. For the avoidance of doubt, notwithstanding anything to the contrary herein, nothing shall affect the rights of any party other than the Liquidating Trustee under any of the Liquidating Trust Insurance Policies, including, without limitation, the D&O Policies.

ARTICLE VI
GENERAL PROVISIONS CONCERNING
ADMINISTRATION OF THE LIQUIDATING TRUST

6.1 Reserves and Additional Funds. The Liquidating Trust shall maintain the GUC Beneficiary Reserve and the Governmental GUC Reserve, and to the extent determined appropriate by the Liquidating Trustee, the Class 4 Claims Reserve, the Class 5 Claims Reserve (each, a “Reserve”), and any disputed claims reserves (each, a “Disputed Claims Reserve”), and shall distribute the funds from such Reserves pursuant to and in accordance with the provisions of the Plan and this Agreement. The Liquidating Trustee shall not be obligated to physically segregate and maintain separate accounts for any Reserve, except, however, that the Governmental GUC Reserve shall be physically segregated and maintained in accounts separate and apart from the GUC Beneficiary Reserve and reserves or allowances established from funds in the GUC Beneficiary Reserve. Separate Reserves and funds may be book-keeping entries or accounting methodologies, which may be revised from time to time, to enable the Liquidating Trustee to determine the amount of distributable Cash, Reserves and amounts to be paid to parties in interest.

(a) GUC Beneficiary Reserve. To the extent not already established prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter, the Liquidating Trustee shall establish and thereafter maintain, the GUC Beneficiary Reserve with the initial principal amount of \$29,500,000 in Cash in an authorized depository in the state of New York, which funds shall vest in the Liquidating Trust free and clear of all liens, Claims, encumbrances, charges, and other interests, except as otherwise specifically provided in the Plan or in the Confirmation Order. Funds in the GUC Beneficiary Reserve shall be used by the Liquidating Trustee for the payment of Allowed Claims in Classes 4 and 5, subject only to the GUC Beneficiary Reserve Carve Out. The GUC Beneficiary Reserve shall not be used for the payment of Allowed Claims in Class 6 or for any fees, expenses or costs associated with the administration, adjustment, dispute or allowance of Claims in Class 6, which such amounts shall be paid solely from the Governmental GUC Reserve. To the extent any funds remain in the GUC Beneficiary Reserve after all Allowed Claims in Classes 4 and 5 have been paid or otherwise satisfied in full, such remaining funds shall be transferred as determined by the Liquidating Trustee in its reasonable discretion, including for use in satisfying Allowed Claims in Class 6.

(b) Reserve Motion. The Liquidating Trustee may file a motion to establish (a) the Class 4 Claims Reserve for the benefit of Holders of Allowed Claims in Class 4, and (b) the Class 5 Claims Reserve for the benefit of Holders of Allowed Claims in Class 5. Each of the Class 4 Claims Reserve and the Class 5 Claims Reserve, if established, shall be funded with Cash from the GUC Beneficiary Reserve in amounts to be agreed by the Committee, the Debtor,

and the Liquidating Trustee, as appropriate, which amounts shall be subject only to the GUC Beneficiary Reserve Carve Out as described in the Reserve Motion. To the extent any funds remain in the Class 4 Claims Reserve and the Class 5 Claims Reserve after all Allowed Claims in Classes 4 and 5 have been paid or otherwise satisfied in full, such remaining funds shall be transferred to the GUC Beneficiary Reserve or the Governmental GUC Reserve, as determined by the Liquidating Trustee in its reasonable discretion, and, to the extent such Reserves have been terminated, as determined by the Liquidating Trustee in its reasonable discretion, including for use in satisfying Allowed Claims in Class 6.

(c) Governmental GUC Reserve. To the extent not already established prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter, the Liquidating Trustee shall establish and thereafter maintain, the Governmental GUC Reserve with the initial principal amount of \$500,000 in Cash in an authorized depository in the state of New York, which funds shall vest in the Liquidating Trust free and clear of all liens, Claims, encumbrances, charges, and other interests, except as otherwise specifically provided in the Plan or in the Confirmation Order. Funds in the Governmental GUC Reserve shall be used by the Liquidating Trustee for the administration, adjustment, dispute, or allowance of Claims in Class 6 and including for the payment of Allowed Claims in Class 6. The Liquidating Trustee shall not have any duty or obligation to use any funds from the GUC Beneficiary Reserve the administration, adjustment, dispute, or allowance of Claims in Class 6 or for the payment of Allowed Claims in Class 6 and shall separately administer the Government GUC Reserve for the benefit of the holders of Allowed Claims in Class 6. To the extent any funds remain in the Governmental GUC Reserve after all Allowed Claims in Class 6 have been paid or otherwise satisfied in full, such remaining funds shall be transferred as determined by the Liquidating Trustee in its reasonable discretion, including for use in satisfying Allowed Claims in Classes 4 and 5.

(d) Separate Administration of Government GUC Reserve. The Liquidating Trustee shall not have any duty or obligation to use any funds contained in the GUC Beneficiary Reserve for the administration, adjustment, dispute, or allowance of Claims in Class 6 or for the payment of Allowed Claims in Class 6, unless all Allowed Claims in Classes 4 and 5 have been paid in full. The Liquidating Trustee shall separately administer Government GUC Reserve for the benefit of the Holders of Claims in Class 6. Further, the Liquidating Trustee shall not have any duty or obligation to use any funds from the Government GUC Reserve for the administration, adjustment, dispute, or allowance of Claims in Classes 4 and 5 or for the payment of Allowed Claims in Classes 4 and 5, unless all Allowed Claims in Class 6 are paid in full. The Liquidating Trustee shall separately administer the GUC Beneficiary Reserve for the benefit of the Holders of Claims in Classes 4 and 5. Notwithstanding anything herein to the contrary, the Liquidating Trustee may apportion expenses of the Liquidating Trust between the GUC Beneficiary Reserve and Government GUC Reserve to the extent required to ensure that each of GUC Beneficiary Reserve and Government GUC Reserve bear their respective shares of Trust Expenses.

(e) Disputed Claims Reserves. On the Effective Date and periodically thereafter, the Liquidating Trustee shall estimate appropriate reserves of Cash from (i) the GUC Beneficiary Reserve to be set aside in a Disputed Claims Reserve in order to pay or reserve for Disputed Class 4 and 5 Claims, (ii) the Governmental GUC Reserve to be set aside in a Disputed

Claims Reserve in order to pay or reserve for Disputed Class 6 Claims, and (iii) to the extent the Reserve Motion is granted, each of the Class 4 Claims Reserve and the Class 5 Claims Reserve to be set aside in the applicable Disputed Claims Reserves in order to pay or reserve for Disputed Class 4 Claims and Disputed Class 5 Claims, respectively. In each case, any amounts set aside to pay or reserve for Disputed Claims shall include the amounts needed to fund the ongoing costs and expenses of such reserve, including, without limitation, taxes in respect of Disputed Claims, if any. Each Disputed Claims Reserve shall be closed and extinguished by the Liquidating Trustee when all distributions required to be made therefrom under the Plan and this Agreement have been made. Upon closure of any Disputed Claims Reserve, all Cash and other property held in that Disputed Claims Reserve shall be returned to the GUC Beneficiary Reserve, the Class 4 Claims Reserve, the Class 5 Claims Reserve, or the Governmental GUC Reserve, as applicable.

6.2 Books and Records.

(a) The Liquidating Trustee or its designated agent shall maintain in respect of the Liquidating Trust and the Beneficiaries the books and records (including the Debtor's books and records) relating to the Claims of the Liquidating Trust Beneficiaries, the Liquidating Trust Assets, the income of the Liquidating Trust and the payment of expenses of, and liabilities of claims against or assumed by, the Liquidating Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof. Such books and records shall be maintained on a modified cash or other comprehensive basis of accounting necessary to facilitate compliance with the tax reporting requirements of the Liquidating Trust.

(b) The Reorganized Debtor, the Liquidating Trustee, and the Environmental Response Trustee shall coordinate to develop a document sharing, retention, and maintenance policy with respect to the Reorganized Debtor Books and Records, the Liquidating Trust Books and Records, and the Environmental Response Trust Books and Records, the terms of which shall be agreed upon among the Reorganized Debtor, the Liquidating Trustee, and the Environmental Response Trustee.

6.3 Confidentiality. The Liquidating Trustee shall, during the period that it serves as Trustee under this Agreement and thereafter, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any entity to which any of the Liquidating Trust Assets relates or of which the Liquidating Trustee has become aware in its capacity as such; provided, however, that this section 5.3 shall not apply to information provided in compliance with an Order of the Bankruptcy Court.

ARTICLE VII BENEFICIAL INTERESTS AND BENEFICIARIES

7.1 Identification of Beneficiaries. The record Beneficiaries shall be recorded and set forth in a register (the "Beneficiary Register") maintained by the Liquidating Trustee. The Liquidating Trustee shall update the Beneficiary Register periodically as Disputed Claims become Allowed Claims. All references in this Agreement to Beneficiaries shall be read to mean Beneficiaries of record as set forth in the official register maintained by the Liquidating Trustee

on such official registry (including any permitted successors or assigns, as applicable). The Liquidating Trustee may deem and treat the Beneficiary reflected as the owner of a beneficial interest on the Register and 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.

7.2 Rights of Beneficiaries. Each Beneficiary shall be entitled to (i) participate in the rights due to such Beneficiary under the Plan and this Agreement, (ii) take and hold its uncertificated beneficial interest subject to all of the terms and provisions of this Agreement, the Confirmation Order, the Plan, and any other Order of the Bankruptcy Court, and (iii) receive distributions as set forth in the Plan.

7.3 Interest Beneficial Only. Ownership of a beneficial interest in the Liquidating Trust shall not entitle any Beneficiary to any title in or to the Liquidating Trust Assets or to any right to call for a partition or division of the Liquidating Trust Assets or to require an accounting.

7.4 Evidence of Beneficial Interest. Ownership of a beneficial interest in the Liquidating Trust 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 Liquidating Trust by the Liquidating Trustee. In the absence of manifest error, the ownership of beneficial interests as reflected on the books and records of the Liquidating Trust maintained by the Liquidating Trustee shall be conclusive and binding on all owners of beneficial interests.

7.5 Exemption from Registration. The parties hereto intend that the rights of the holders of the beneficial interests arising under this Agreement shall not be “securities” under applicable laws, but none of the parties hereto represents or warrants that such rights shall not be securities or shall be entitled to exemption from registration under applicable securities laws. If such rights constitute securities, the parties hereto intend for the exemption from registration provided by Section 1145 of the Bankruptcy Code and by other applicable law to apply to their issuance under the Plan.

7.6 Transfer of Beneficial Interests. Beneficial interests in the Liquidating Trust shall not be transferrable except upon death of the interest holder or by operation of law.

7.7 Change of Address. A Beneficiary may, after the Effective Date, select an alternative distribution address by filing a notice with the Bankruptcy Court (copy served on the Liquidating Trustee and Disbursing Agent) identifying such alternative distribution address. Absent such notice, the Liquidating Trustee shall not recognize any such change of distribution address. Such notification shall be effective only upon receipt by the Liquidating Trustee.

7.8 Effect of Death, Dissolution, Incapacity, or Bankruptcy of Beneficiary. The death, dissolution, incapacity, or bankruptcy of a Beneficiary during the term of the Liquidating Trust shall not (i) operate to terminate the Liquidating Trust during the term of the Liquidating Trust; (ii) entitle any representative or creditors of the deceased, incapacitated, or bankrupt Beneficiary (a) to an accounting, (b) to take any action in any court or elsewhere for the distribution of the Liquidating Trust Assets, or (c) to a partition of the Hovensa Trust Assets; or

(iii) otherwise affect the rights and obligations of the Beneficiary under this Agreement or in the Liquidating Trust.

7.9 Standing. Except as expressly provided in this Agreement, the Plan, or the Confirmation Order, a Beneficiary does not have standing to direct the Liquidating Trustee to do or not to do any act or to institute any action or proceeding at law or in equity against any party upon or with respect to the Liquidating Trust Assets.

ARTICLE VIII PROCEDURES FOR RESOLVING AND TREATING DISPUTED CLAIMS

8.1 Prosecution of Objections to Claims and Claims Procedures. The Liquidating Trustee shall have and shall retain any and all rights and defenses that the Debtor had with respect to any Claim in Classes 4, 5, and 6 against, or assumed by, the Liquidating Trust, except with respect to any Claim in Classes 4, 5, and 6 deemed Allowed as of the Effective Date. The Liquidating Trustee shall have the exclusive authority to (a) File objections to Claims in Classes 4, 5, and 6; (b) File a Claims Procedures Motion as described in the Plan; and (c) settle, compromise, withdraw, or litigate to judgment objections on behalf of the Debtor's Estate to any and all such Claims. The Liquidating Trustee shall have the authority to administer and adjust the Beneficiary Register and the Claims Register, as applicable, to reflect any such settlements or compromises and no further notice to or action, order, or approval of the Bankruptcy Court with respect to such settlements or compromises shall be required.

8.2 Distributions Regarding Disputed Claims. Distributions made after the Effective Date to Holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall, in the reasonable discretion of the Liquidating Trustee, be deemed to have been made by the Liquidating Trustee on the Effective Date, unless the Liquidating Trustee and the Holder of such Claim agree otherwise. Any distribution that is not made on the Initial Distribution Date or on any other date specified in the Plan because the Claim that would have been entitled to receive that distribution is not an Allowed Claim on such date, shall be held by the Disbursing Agent and distributed on the next Subsequent Distribution Date that occurs after such Claim is Allowed. No interest shall accrue or be paid on the unpaid amount of any distribution paid pursuant to the Plan. Notwithstanding any provision otherwise in the Plan and except as may be agreed to by the Liquidating Trustee, on the one hand, and the Holder of a Disputed Claim, on the other hand, no partial payments and no partial distributions shall be made with respect to any Disputed Claim until all Disputed Claims held by the Holder of such Disputed Claim have become Allowed Claims or have otherwise been resolved by settlement or Final Order.

8.3 Claims Estimation.

(a) On and after the Effective Date, the Liquidating Trustee may, at any time, request that the Bankruptcy Court estimate (i) any Disputed Claim pursuant to applicable law and (ii) any contingent or unliquidated Claim pursuant to applicable law, in each case regardless of whether the Debtor or the Liquidating Trustee has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection.

(b) Notwithstanding any provision otherwise in the Plan to the contrary, a Claim that has been expunged from the Claims Register but that is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any Disputed Claim, contingent Claim, or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim for all purposes under the Plan, including for purposes of distributions, and the Liquidating Trustee may elect to pursue additional objections to the ultimate distribution on such Claim. If the estimated amount constitutes a maximum limitation on such Claim, the Liquidating Trustee may elect to pursue any supplemental proceedings to object to any ultimate distribution on account of such Claim. Notwithstanding section 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim that has been estimated pursuant to section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such Holder has Filed a motion requesting the right to seek such reconsideration on or before 21 days after the date on which such Claim is estimated. All of the aforementioned Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

8.4 Expungement or Adjustment to Claims Without Objection. Any Claim that has been paid, satisfied, or superseded may be expunged on the Claims Register by the Liquidating Trustee or the Claims and Noticing Agent, as applicable, and any Claim that has been amended may be adjusted thereon by the Liquidating Trustee without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

8.5 Disputed Claims Reserve. The Liquidating Trustee shall create Disputed Claims Reserves in accordance with Section 5.1(d) of this Agreement.

ARTICLE IX DISTRIBUTIONS

9.1 Disbursing Agent. The Liquidating Trustee shall be the Disbursing Agent with respect to Allowed Claims in Classes 4, 5, and 6 and shall make all distributions on Allowed Claims in Classes 4, 5, and 6.

9.2 Distributions from Liquidating Trust Assets. All payments to be made by the Liquidating Trust to any Beneficiary shall be made only in accordance with the Plan, the Confirmation Order, and this Agreement and out of the Liquidating Trust Assets (or from the income and proceeds realized from the Liquidating Trust Assets), subject to any amounts set aside in the Disputed Claims Reserves.

9.3 Calculation of Amounts to Be Distributed. Each Holder of an Allowed Claim against the Debtor shall receive the full amount of the distributions that the Plan provides for Allowed Claims in the applicable Class.

9.4 Distribution Record Date. On the Distribution Record Date, the Claims Register shall be closed and the Disbursing Agent shall be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

9.5 Distributions; Withholding. The Liquidating Trustee shall make distributions to Holders of Allowed Claims in Classes 4, 5, and 6 as provided in the Plan. All such distributions shall be made as provided, and subject to any withholding or reserve, in this Agreement, the Plan or the Confirmation Order. Additionally, the Liquidating Trustee may withhold from amounts distributable to any Beneficiary any and all amounts, determined in the Liquidating Trustee's sole discretion, to be required by any law, regulation, rule, ruling, directive, or other governmental requirement. In addition, all distributions under this Agreement shall be net of the actual and reasonable costs of making such distributions. The net income of the Liquidating Trust and all net proceeds from the sale of Liquidating Trust Assets shall be distributed at least annually (except that the Liquidating Trustee may retain an amount of cash or other Liquidating Trust Assets or net income of the Liquidating Trust reasonably necessary to maintain the value of the Liquidating Trust Assets and to meet claims and contingent liabilities (including Disputed Claims)).

9.6 Undeliverable/Unclaimed Distributions. In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Liquidating Trustee and the Disbursing Agent are notified of the then current address of such Holder, at which time such distribution shall be made to such Holder without interest. Amounts in respect of undeliverable distributions shall be returned to the Liquidating Trust until such distributions are claimed. All undeliverable distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date the initial distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the Liquidating Trust automatically and without need for a further order by the Bankruptcy Court for distribution in accordance with the Plan, and the Claim of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred.

9.7 Expenses of Distribution. All distributions to be made by the Liquidating Trust under the Plan shall be net of the actual and reasonable costs of making such distributions, as set forth in section 2.5 of this Agreement.

9.8 Timing of Distributions Under the Plan. On and after the Effective Date, the Disbursing Agent shall make the distributions required to be made on account of Allowed Claims under the Plan. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, in which case such payment shall be deemed to have occurred when due.

9.9 Minimum; De Minimis Distributions. No Cash payment of less than \$50.00, in the reasonable discretion of the Liquidating Trustee shall be made to a Holder of an Allowed Claim on account of such Allowed Claim. If a Holder of an Allowed Claim would be entitled to

receive less than \$50.00 as of the time of a particular distribution, but would be entitled to receive more than \$50.00 in combination with later distributions, the Liquidating Trustee will combine such distributions with later distributions to such Holder of an Allowed Claim so that such Holder may eventually be entitled to a distribution of at least \$50.00 in value. To the extent that the aggregate of such distributions never exceeds \$50.00, such funds shall remain with and vest in the Liquidating Trust for distribution to other Holders of Allowed Claims.

9.10 Manner of Payment Under the Plan. Unless the Liquidating Trustee and the Entity receiving a payment agrees otherwise, any payment in Cash to be made under the Plan shall be made at the election of the Liquidating Trustee by check or by wire transfer.

9.11 Setoffs. Except as otherwise provided in the Plan, the Liquidating Trustee pursuant to the Bankruptcy Code (including sections 553 and 558 of the Bankruptcy Code), applicable nonbankruptcy law, or as may be agreed to by the Holder of a Claim in Class 4, 5, or 6, may set off against any Allowed Claim in Class 4, 5, or 6 on account of any Proof of Claim or other pleading Filed with respect thereto prior to the Combined Hearing and the distributions to be made pursuant to the Plan on account of such Allowed Claim in Class 4, 5, or 6 (before any distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that the Debtor's Estate may hold against the Holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); provided that neither the failure to effect such a setoff nor the allowance of any Claim in Classes 4, 5, or 6 pursuant to the Plan shall constitute a waiver or release by the Liquidating Trustee of any such claims, rights, and Causes of Action that the Debtor's Estate may possess against such Holder. In no event shall any Holder of a Claim in Class 4, 5, or 6 be entitled to set off any Claim against any claim, right, or Cause of Action of the Debtor's Estate unless such Holder has timely Filed a Proof of Claim with the Bankruptcy Court expressly preserving such setoff; provided that nothing in the Plan shall prejudice or be deemed to have prejudiced the Debtor's or the Liquidating Trustee's right to assert that any Holder's setoff rights were required to have been asserted by motion or pleading filed with the Bankruptcy Court prior to the Effective Date.

9.12 Interest on Claims. Notwithstanding anything to the contrary in the Plan, no Holder of an Allowed Claim in Class 4, 5, or 6 shall, on account of such Allowed Claim, receive a distribution in excess of the Allowed amount of such Claim plus any interest accruing on such Claim that is actually payable in accordance with the Plan.

9.13 Charitable Distributions. The Liquidating Trustee shall have the discretion to cease distributions when the corpus of the Liquidating Trust is reduced to \$10,000 and to transfer any remaining funds to a charitable organization as determined in the Liquidating Trustee's reasonable discretion.

ARTICLE X TAXES

10.1 Income Tax Status. Consistent with Revenue Procedure 94-45, 1994-28 I.R.B. 124, the Liquidating Trust shall be treated as a liquidating trust pursuant to Treas. Reg.

section 301.7701-4(d) and as a grantor trust that is a foreign trust pursuant to the Tax Code. As such, the Beneficiaries will be treated as both the grantors and the deemed owners of the Liquidating Trust. Any items of income, deduction, credit, and loss of the Liquidating Trust shall be allocated for federal income tax purposes to the Beneficiaries. The Liquidating Trust shall (a) treat each Disputed Claims Reserve, and the Liquidating Trust Assets allocable thereto, as a “disputed ownership fund” governed by Treasury Regulation section 1.468B-9 by timely making an election, (b) file such tax returns and pay such taxes as may be required consistent with such treatment, and (c) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes.

10.2 Tax Returns. The Liquidating Trust shall annually file Form 3520-A in a timely manner with the IRS and furnish the information provided on Form 3520-A to Liquidating Trust Beneficiaries that are “United States persons” as defined in the Tax Code. In addition, the Liquidating Trust shall file in a timely manner such other tax returns, including any federal, state, local or non-U.S. (including the U.S. Virgin Islands) tax returns, as are required by applicable law (including for the avoidance of doubt, Treasury Regulation 1.671-4(a)) and pay any taxes shown as due thereon including with respect to any Disputed Claims Reserve treated as a disputed ownership fund out of the GUC Beneficiary Reserve (or the income or proceeds thereof). Within a reasonable time following the end of the taxable year, the Liquidating Trust shall send to each Beneficiary a separate statement setting forth the Beneficiary’s share of items of income, gain, loss, deduction or credit and informing each such Beneficiary that such items should be reported on such Beneficiary’s federal, state, local, non-U.S. (including the U.S. Virgin Islands) and other income tax returns, as applicable. The Liquidating Trustee shall allocate the taxable income, gain, loss, deduction, or credit of the Liquidating Trust with respect to each Beneficiary.

10.3 Withholding of Taxes and Reporting Related to Liquidating Trust Operations. The Liquidating Trust shall comply with all withholding and reporting requirements imposed by any federal, state, local, or non-U.S. (including the U.S. Virgin Islands) taxing authority, and all distributions made by the Liquidating Trust shall be subject to any such withholding and reporting requirements including with respect to any Disputed Claims Reserve treated as a disputed ownership fund. To the extent that the operation of the Liquidating Trust or the liquidation of the Liquidating Trust Assets creates a tax liability, the Liquidating Trust shall promptly pay such tax liability out of the GUC Beneficiary Reserve and any such payment shall be considered a cost and expense of the operation of the Liquidating Trust payable without Bankruptcy Court order. The Liquidating Trust may reserve a sum, the amount of which shall be determined by the Liquidating Trustee, from the GUC Beneficiary Reserve sufficient to pay the accrued or potential tax liability arising out of the operations of the Liquidating Trust or the administration of the Liquidating Trust Assets. The Liquidating Trustee, on behalf of the Liquidating Trust, may enter into agreements with taxing authorities or other governmental units for the payment of such amounts as may be withheld. Any federal, state, local or non-U.S. (including the U.S. Virgin Islands) withholding taxes or other amounts required to be withheld under applicable law shall be deducted from distributions hereunder.

10.4 Tax Identification Numbers. The Liquidating Trustee may require any Beneficiary to furnish to the Liquidating Trustee its social security number or employer or

taxpayer identification number as assigned by the IRS and the Liquidating Trustee may condition any distribution to any Beneficiary upon the receipt of such identification number.

ARTICLE XI TERMINATION OF THE LIQUIDATING TRUST

11.1 Termination of Liquidating Trust. The Liquidating Trustee shall be discharged and the Liquidating Trust shall be terminated, at such time as (1) all Disputed Claims in Classes 4, 5, and 6 have been resolved, (2) all of the Liquidating Trust Assets have been liquidated, (3) all duties and obligations of the Liquidating Trustee hereunder have been fulfilled, and (4) all distributions required to be made by the Liquidating Trust under the Plan and the Liquidating Trust Agreement have been made.

11.2 Maximum Term. In no event shall the Liquidating Trust be dissolved later than five (5) years from the Effective Date unless the Bankruptcy Court, upon motion by the Liquidating Trustee within the six-month period prior to the third anniversary (or the end of any extension period approved by the Bankruptcy Court), determines that a fixed period extension (not to exceed five (5) years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the Liquidating Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the liquidation, recovery and distribution of the Liquidating Trust Assets. The duties, responsibilities, and powers of the Liquidating Trustee will terminate in accordance with the terms of the Liquidating Trust Agreement.

11.3 Events Upon Termination. At the conclusion of the term of the Liquidating Trust, the Liquidating Trustee shall distribute the remaining Liquidating Trust Assets, if any, in its reasonable discretion, including to a charitable organization, in accordance with the Plan, the Confirmation Order, and this Agreement.

11.4 Winding Up, Discharge, and Release of the Liquidating Trustee. The Liquidating Trustee shall seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules once (i) all Disputed Claims have become Allowed or disallowed, (ii) the Reorganized Debtor has terminated in accordance with the Plan, (iii) the Liquidating Trust has terminated in accordance with the Plan, (iv) all remaining Liquidating Trust Assets have been distributed in accordance with the Plan, and (v) the business and affairs of the Debtor have been otherwise wound down. For the purposes of winding up the affairs of the Liquidating Trust at the conclusion of its term, the Liquidating Trustee shall continue to act as Liquidating Trustee until its duties under this Agreement have been fully discharged or its role as Liquidating Trustee is otherwise terminated under this Agreement and the Plan. Upon a motion by the Liquidating Trustee, the Bankruptcy Court may enter an order relieving the Liquidating Trustee, its agents and employees of any further duties, discharging, and releasing the Liquidating Trustee and releasing its bond, if any.

ARTICLE XII
MISCELLANEOUS PROVISIONS

12.1 Amendments. The Liquidating Trustee may modify, supplement, or amend this Agreement in any way that is not inconsistent with the Plan or the Confirmation Order. The Liquidating Trustee shall seek Bankruptcy Court approval of any material modification, supplement, or amendment.

12.2 Waiver. No failure by the Liquidating Trust, the Liquidating Trustee, or its agents, professionals and employees 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.

12.3 Cumulative Rights and Remedies. The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights under law or in equity.

12.4 No Bond Required. Notwithstanding any state law to the contrary, the Liquidating Trustee (including any successor Liquidating Trustee) shall be exempt from giving any bond or other security in any jurisdiction. In the event that the Liquidating Trustee is otherwise ordered by the Bankruptcy Court, all costs and expenses of the Liquidating Trustee in procuring any such bond or surety shall be paid for with Cash derived from the GUC Beneficiary Reserve.

12.5 Irrevocability. This Agreement and the Liquidating Trust created hereunder shall be irrevocable, except as otherwise expressly provided in this Agreement.

12.6 Relationship to the Plan. The principal purpose of this Agreement is to aid in the implementation of the Plan and, therefore, this Agreement incorporates and is subject to the provisions of the Plan and the Confirmation Order. In the event that any provision of this Agreement is found to be inconsistent with a provision of the Plan or the Confirmation Order, the provisions of the Plan or the Confirmation Order, as applicable, shall control. In the event that any provision of the Plan is found to be inconsistent with a provision of the Confirmation Order, the Confirmation Order shall control.

12.7 Applicable Law. This Liquidating Trust shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to rules governing the conflict of laws.

12.8 Retention of Jurisdiction. Notwithstanding the Effective Date, and to the fullest extent permitted by law, the Bankruptcy Court shall retain exclusive jurisdiction over the Liquidating Trust after the Effective Date, including, without limitation, jurisdiction to resolve any and all controversies, suits and issues that may arise in connection therewith, including, without limitation, this Agreement, or any Entity's obligations incurred in connection herewith, including without limitation, any action against the Liquidating Trustee or any professional retained by the Liquidating Trustee, in each case in its capacity as such. Each party to this Agreement hereby irrevocably consents to the exclusive jurisdiction of the Bankruptcy Court in any action to enforce, interpret or construe any provision of this Agreement or of any other

agreement or document delivered in connection with this Agreement, and also hereby irrevocably waives any defense of improper venue, forum *non conveniens* or lack of personal jurisdiction to any such action brought in the Bankruptcy Court. Each party further irrevocably agrees that any action to enforce, interpret, or construe any provision of this Agreement will be brought only in the Bankruptcy Court. Each party hereby irrevocably consents to the service by certified or registered mail, return receipt requested, of any process in any action to enforce, interpret or construe any provision of this Agreement.

12.9 Severability. In the event that any provision of this Agreement or the application thereof to any person or circumstance shall be determined by the Bankruptcy Court to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to persons or circumstance, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

12.10 Limitation of Benefits. Except as otherwise specifically provided in this Agreement, the Plan or the Confirmation Order, nothing herein is intended or shall be construed to confer upon or to give any person other than the parties hereto and the Beneficiaries any rights or remedies under or by reason of this Agreement.

12.11 Notices. Notices to Beneficiaries shall be given by first class mail, postage prepaid, at the address of such person in each case as provided on such person's Proof of Claim. Any notices or other communications required or permitted hereunder to the following parties shall be in writing and delivered at the addresses designated below, or sent by e-mail or facsimile pursuant to the instructions listed below, or mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows, or to such other address or addresses as may hereafter be furnished in writing to each of the other parties listed below in compliance with the terms hereof.

To the Liquidating Trust: [_____]

To the Liquidating Trustee: [_____]

All such notices and communications if mailed shall be effective when physically delivered at the designated addresses or, if electronically transmitted, when the communication is received at the designated addresses and confirmed by the recipient by return transmission.

12.12 Entire Agreement; No Waiver. The entire agreement of the parties relating to the subject matter of this Agreement is contained herein and in the Plan and Confirmation Order referred to herein, and this Agreement and such documents supersede any prior oral or written agreements concerning the subject matter hereof. No failure to exercise or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, 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. The rights and remedies herein provided are cumulative and are not exclusive of rights under law or in equity.

12.13 Headings. The headings used in this Agreement are inserted for convenience only and do not constitute a portion of this Agreement, nor in any manner affect the construction of the provisions of this Agreement.

12.14 Effectiveness. This Agreement shall not become effective until it has been executed and delivered by all the parties hereto.

12.15 Counterpart Signatures. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but such counterparts shall together constitute but one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement this [____] day of
January, 2016.

HOVENSA, L.L.C.

By: _____
Name: _____
Title: _____

LIQUIDATING TRUSTEE

[_____]

By: _____
Name: _____
Title: _____

DELAWARE TRUSTEE

[_____]

By: _____
Name: _____
Title: _____

Expiration Date of Initial Term: Fifth
Anniversary of the date of this Agreement

Exhibit A

**CERTIFICATE OF TRUST OF
HOVENSA LIQUIDATING TRUST**

This Certificate of Trust of the Hovensa Liquidating Trust (the "Trust") is being duly executed and filed on behalf of the Trust by the undersigned, as trustees, to form a statutory trust under the Delaware Statutory Trust Act (12 Del. C. § 3801 *et seq.*, as amended from time to time) (the "Act").

1. Name. The name of the statutory trust formed by this Certificate of Trust is Hovensa Liquidating Trust.
2. Delaware Trustee. The name and address of the trustee of the Trust with a principal place of business in the State of Delaware is [_____].
3. Effective Date. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned have duly executed this Certificate of Trust in accordance with Section 3811(a)(1) of the Act .

[_____] not in its individual capacity but solely as Delaware Trustee

By: _____

Name: _____

Title: _____

[_____] not in its individual capacity but solely as Liquidating Trustee

By: _____

Name: _____

Title: _____

Exhibit B

Environmental Response Trust Agreement

ENVIRONMENTAL RESPONSE TRUST AGREEMENT

BY AND AMONG

HOVENSA L.L.C.
As Settlor,

[Trustee Entity]
not individually but solely in its representative capacity
as Environmental Response Trustee,

AND

THE UNITED STATES OF AMERICA and
the UNITED STATES VIRGIN ISLANDS
as Beneficiaries

As of [Effective Date]

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ENVIRONMENTAL RESPONSE TRUST AGREEMENT

(Hovenssa Facility)

This Environmental Response Trust Agreement (the “Agreement”) is made this ___th day of ____, 2016, by and among HOVENSA L.L.C. (“Hovenssa”), as debtor and debtor in possession in the Bankruptcy Case (defined below) (the “Settlor”) and [Trustee Entity], not individually but solely in its representative capacity as Environmental Response Trustee (defined herein) of the Environmental Response Trust (defined herein) for the Facility (defined herein) established hereby, and the Beneficiaries (defined herein).

RECITALS:

WHEREAS, on September 15, 2015 (the “Petition Date”), the Settlor filed a voluntary petition for relief under chapter 11 of the title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), initiating Case No. 1:15-10003-MFW (the “Bankruptcy Case”) in the United States District Court of the U.S. Virgin Islands, Bankruptcy Division – St. Croix, Virgin Islands (“Bankruptcy Court”);

WHEREAS, on the Petition Date, the Settlor filed its *Motion for Entry of Orders (A)(I) Establishing Bidding Procedures Relating to the Sale of the Debtor's Assets, Including Approving Break-Up Fee and Expense Reimbursement, (II) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, Including Notice of Proposed Cure Amounts, (III) Approving Form and Manner of Notice Relating Thereto, and (IV) Scheduling a Hearing to Consider the Proposed Sale; (B)(I) Approving the Sale of the Debtor's Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, and (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (C) Granting Related Relief* [Docket No. 15] (the “Sale Motion”);

WHEREAS, on December 1, 2015 the Bankruptcy Court entered the Sale Order (defined herein) granting the Sale Motion;

WHEREAS, on January 4, 2016, the Settlor entered into that certain Amended and Restated Asset Purchase Agreement, by and among the Purchaser (defined below), Limetree Bay Holdings, LLC the Settlor, and Hess Oil Virgin Islands Corp., a corporation organized under the Laws of the U.S. Virgin Islands (as may be amended, supplemented, or modified from time to time, the “Purchase Agreement”), pursuant to which the Purchaser agreed to purchase certain real and personal property utilized in Hovenssa’s crude oil and product storage and terminalling business, but excluding the Purchase Agreement Excluded Assets (defined below);

WHEREAS, on December 17, 2015, the Settlor filed its *Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 467] (as may be amended, modified, and supplemented from time to time, the “Plan”) with the Bankruptcy Court;

WHEREAS, the Plan provides for the creation of the Environmental Response Trust (defined below) to be administered by the Environmental Response Trustee (defined below) pursuant to this Agreement and the Plan;

WHEREAS, in accordance with Article VIII of the Plan, the Confirmation Order (defined herein), and the Termination and Release Agreement, the Environmental Response Trust is established for the primary purposes of (a) paying for any post-Environmental Response Trust Effective Date (defined herein) Remediation/Compliance Costs (defined herein) and associated costs and fees incurred by the Environmental Response Trust, (b) implementing the Environmental Remediation/Compliance Program (defined herein), (c) overseeing the Remedial Actions (defined herein) and (d) owning certain real property transferred from the Settlor as provided in this Agreement, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the purposes of the Environmental Response Trust.

WHEREAS, the Environmental Response Trust is to be funded in the manner set forth in the Plan and the Termination and Release Agreement;

WHEREAS, this Agreement and Article VIII of the Plan govern the Environmental Response Trust, which is intended to be treated as a trust for federal income tax purposes;

WHEREAS, the Environmental Response Trust shall be the exclusive holder of the assets described herein for purposes of 31 U.S.C. § 3713(b);

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein and in the Plan the Parties hereby agree as follows:

ARTICLE I DEFINITIONS

1.1 Definitions.

The following terms as used in this Agreement shall have the definitions given below:

1.1.1 “Above-Grade Refinery Assets” means any and all refining process units, buildings, structures, fixtures or other improvements owned by the Settlor that are present on the Option Refinery Property or the Leased Submerged Lands that are exclusively at or above grade, including the power plant located on the Option Refinery Property, and all equipment, personal property and fixtures, including any and all ancillary and non-structural personal property, required to operate such assets (including below-grade pumps, storage tanks, piping, electrical service and distribution system, control systems and any other associated utility infrastructure); provided, that, for the avoidance of doubt, the Above-Grade Refinery Assets shall not include any Retained Refinery Assets or other Purchase Agreement Excluded Assets. Notwithstanding the foregoing, the Above-Grade Refinery Assets shall include the above-grade portion of the ground flare present on that certain parcel of real property identified in Exhibit H to the Purchase Agreement as an “Excluded” parcel and located within the submerged land border.

1.1.2 [“Accident Trust” means [to come].]

1.1.3 “Administrative and Priority Claims Reserve” shall have the meaning ascribed to such term in the Plan.

1.1.4 “Administrative Costs” means the fees, costs, and expenses incurred in connection with the administration of the Environmental Response Trust, including but not limited to real estate management, taxes, insurance, and maintenance costs, but excluding any expenses (including, without limitation, expenses of the trustees and its third-party professionals) incurred in overseeing and managing the Environmental Remediation/Compliance Program and complying with other applicable environmental obligations imposed by Governmental Units, including reporting requirements.

1.1.5 “Agreement” shall have the meaning given in the preamble.

1.1.6 “Arrangements with the Purchaser” shall mean the Settlor’s rights under the Purchase Agreement, the Shared Services Agreement, and any other Transaction Documents among the Settlor and the Purchaser (or its affiliates) relating to the Purchaser’s obligations with respect to Seller’s wind-up of its affairs (including conducting any Remedial Actions related to the Purchase Agreement Excluded Liabilities and dismantling and disposing of any Retained Refinery Assets or other Purchase Agreement Excluded Assets), including all rights under such agreements (i) with respect to the payment or reimbursement of up to \$30 million of “Wind-Up Costs”; and (ii) to require the Purchaser to supply, or cause one of its affiliates to supply, power after the closing of the Sale Transaction to the Settlor or the Environmental Response Trust, as applicable, as set forth in Section 7.24 of the Purchase Agreement; in each case in accordance with the terms of the Purchase Agreement, the Shared Services Agreement, and any other Transaction Document, as applicable.

1.1.7 “Bankruptcy Case” shall have the meaning given in the recitals to this Agreement.

1.1.8 “Bankruptcy Code” shall have the meaning given in the recitals to this Agreement.

1.1.9 “Bankruptcy Court” shall have the meaning given in the recitals to this Agreement.

1.1.10 “Beneficiaries” means those Governmental Units holding nondischargeable environmental claims whose responsibilities include enforcement and oversight of Environmental Law, including the GVI (through the DPNR) and the United States (on behalf of the EPA).

1.1.11 “Cash” means the legal tender of the United States of America or the equivalent thereof.

1.1.12 “Closing Date” means the Closing Date as defined in section 3.5(a) of the Purchase Agreement.

1.1.13 “Confirmation Order” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.1.14 “Contract Assumption Schedule” shall have the meaning ascribed to such term in the Plan.

1.1.15 “Consent Decree” means the Consent Decree entered on June 7, 2011 in the United States District Court of the Virgin Islands in the matter of *United States of America, and United States Virgin Islands v. Hovensa L.L.C.* (Civ. No.: 1:11-cv-00006).

1.1.16 “Court” means the Bankruptcy Court or, if the Bankruptcy Court abstains from exercising jurisdiction or is otherwise without jurisdiction over any matter arising out of this Agreement, a United States District Court having competent jurisdiction with respect to such matters.

1.1.17 “DPNR” shall mean the Virgin Islands Department of Planning and Natural Resources.

1.1.18 “Effective Date” shall have the meaning ascribed to such term in the Plan.

1.1.19 “Environmental Law” means any Law, Permit, Order or other requirement of Law or voluntary cleanup or “brownfields” program that relates to (a) the protection of the environment (including natural resource restoration and natural resource damages) or of human health or safety (to the extent human health or safety relates to exposure to Hazardous Materials), or (b) the presence, Release, threatened Release, generation, recycling, transportation, storage disposal, treatment or remediation of Hazardous Material, or the arrangement for any such activities.

1.1.20 “Environmental Remediation/Compliance Program” means the program whereby the Environmental Response Trust shall conduct the environmental aspects of the winding-up of the Settlor’s affairs as required by any of the non-terminated environmental permits set forth at Exhibit 2 to the Termination and Release Agreement, including the RCRA Permit, by Environmental Law, and/or as otherwise enumerated as follows: (a) the activities required by the RCRA Permit and associated plans, including the pump and treat program and all other corrective actions required for the solid waste management units and areas of concern; (b) the Product Release Prevention Program required by the RCRA Permit, which includes testing and repair of atmospheric storage tankage, oily water conveyance systems and underground piping in chemical or hydrocarbon service; (c) the obligations associated with regulated units required by the RCRA Permit and/or the RCRA Post-Closure Permit, including with regard to units known as Landfarms I, II and III, (d) the groundwater remediation and monitoring program at the Facility that had been conducted by the Debtor prior to the Closing Date, and reported by the Debtor in the Semiannual Corrective Action Status Reports required by the RCRA Permit; (e) the marine study required by Section 4.7.2 of this Agreement; (f) all of the activities described in, or that are the functional equivalent

of, those described in Table 1: Review of Wind Down Cost Estimate December 20, 2015 submitted to the GVI on December 20, 2015, which were estimated by the Settlor to have a total cost of \$66,637,000; (g) implementation of the Debtor's obligations under Section IX (Territorial Supplemental Environmental Project) of the Consent Decree, including the obligation to approve the disbursement of funds from the TSEP Account to fund the Territorial Supplemental Environmental Project, as well as the obligation to provide the VIWAPA Emissions Monitoring Assistance (at a total cost not to exceed \$500,000); and (h) any other environmental obligations of Settlor related to the Facility that are not being assumed by other parties.

1.1.21 "Environmental Response Trust" means the trust established pursuant to this Agreement.

1.1.22 "Environmental Response Trust Account" shall have the meaning given in Section 2.2 hereof.

1.1.23 "Environmental Response Trust Administrative Account" means the Environmental Response Trust Account established in accordance with this Agreement to fund the payment of Administrative Costs.

1.1.24 "Environmental Response Trust Assets" means: (a) the ERT Cash Payment; (b) the ERT Cash Distributions; (c) the Remaining Assets; (d) the Settlor's rights with respect to the RCRA Trusts and the TSEP Account; [(e) the Settlor's rights with respect to the Accident Trust;] (f) the Settlor's rights with respect to the Environmental Response Trust Insurance Policies and any rights to assert claims with respect to any such insurance recoveries; (g) the Environmental Response Trust Books and Records; (h) the Settlor's rights with respect to any Executory Contracts or Unexpired Leases identified on the Contract Assumption Schedule as being assigned to the Environmental Response Trust; and (i) the Settlor's rights under the Purchase Agreement, the Shared Services Agreement, and any other Transaction Documents among the Settlor and the Purchaser (or its Affiliates) relating to nondischargeable environmental claims, including all rights under such agreements (x) with respect to the payment or reimbursement of Wind-Up Costs (as such term is defined in the Purchase Agreement); (y) to require the Purchaser to supply, or cause one of its affiliates to supply, power after the closing of the Sale Transaction to the Settlor or the Environmental Response Trust, as applicable, as set forth in section 7.24 of the Purchase Agreement; and (z) any other rights of recovery under the Purchase Agreement and any other Transaction Document among the Settlor and the Purchaser (or its Affiliates); in each case in accordance with the terms of the Purchase Agreement, the Shared Services Agreement, and any other Transaction Document, as applicable.

1.1.25 "Environmental Response Trust Books and Records" means any of the Settlor's books and records that relate to the Environmental Remediation/Compliance Program and the activities of the Environmental Response Trust.

1.1.26 "Environmental Response Trust Effective Date" means the date upon which the Environmental Response Trust becomes effective, which date may be

after the Effective Date if the condition precedent set forth in Article XI.A.4 of the Plan is waived in accordance with Article XI.B of the Plan.

1.1.27 “Environmental Response Trust Remediation Cost Account” means the Environmental Response Trust Account established in accordance with this Agreement to fund the payment of Remediation/Compliance Costs.

1.1.28 “Environmental Response Trust Insurance Policies” means the insurance policies identified in a schedule in the Plan Supplement (which shall include the ERT Agreed Insurance Policies).

1.1.29 “Environmental Response Trust Parties” means, collectively, the Environmental Response Trust, the Environmental Response Trustee, and the Environmental Response Trustee’s shareholders, officers, directors, employees, members, managers, partners, affiliated entities, consultants, agents, accountants, attorneys or other professionals or representatives engaged or employed by the Environmental Response Trust or Environmental Response Trustee; provided however, that any contractors or consultants retained to perform or oversee the Environmental Remediation/Compliance Program of the Environmental Response Trust (for the avoidance of doubt, other than the Environmental Response Trustee and its officers, directors, and employees) shall not be Environmental Response Trust Parties.

1.1.30 “Environmental Response Trust Proceeds” means the net proceeds of any liquidation, sale, lease, recovery or other disposition of or other proceeds in respect of the Environmental Response Trust Assets.

1.1.31 “Environmental Response Trust Transfer Date” means each date on which any ERT Cash Distribution shall be made.

1.1.32 “Environmental Response Trustee” means the trustee of the Environmental Response Trust.

1.1.33 “EPA” means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

1.1.34 “ERT Agreed Insurance Policies” means the insurance policies with insurance carriers with AM Best Ratings of A- or greater and Financial Size Category XV or greater providing coverage, at a minimum, for cleanup and remediation of, and bodily injury or property damage arising from, presently unknown conditions at or emanating or migrating from the Facility, with coverage of no less than \$50,000,000 per occurrence and in the aggregate under commercially reasonable terms (to be raised to \$75,000,000 per occurrence and in the aggregate if such limits are reasonably commercially available), and all on such other terms as are laid out in Exhibit 1 or Exhibit 1-A (as amended) to the Termination and Release Agreement (if more than one policy is used to obtain the required limits, all excess policies shall follow form and provide coverage on the same terms and conditions as the underlying policy).

1.1.35 “ERT Cash Distribution” means any transfer of excess Cash in the Administrative and Priority Claims Reserve by the Reorganized Debtor to the Environmental Response Trust (other than the ERT Cash Payment) on any Environmental Response Trust Transfer Date.

1.1.36 “ERT Cash Payment” means \$5,000,000 to be transferred by the Debtor or the Reorganized Debtor, as applicable, to the Environmental Response Trust on the Environmental Response Trust Effective Date.

1.1.37 “Facility” shall have the meaning ascribed to such term in the RCRA Permit, including, without limitation, the Retained Refinery Assets, the Leased Submerged Lands, and real property transferred from the Settlor in connection with the Purchase Agreement.

1.1.38 “Final Certification” shall have the meaning ascribed to such term in the Plan.

1.1.39 “Government Parcels” means each parcel of real property identified on Exhibit H to the Purchase Agreement, which real property shall be transferred from the Settlor to the GVI in connection with the Sale Transaction.

1.1.40 “Governmental Unit” has the meaning set forth in section 101(27) of the Bankruptcy Code.

1.1.41 “GVI” means the Government of the United States Virgin Islands, including any United States Virgin Islands Governmental Unit, department, agency or affiliate.

1.1.42 “Hazardous Material” means any waste, including any solid or hazardous waste or hazardous constituent, or any other substance that is listed, defined, designated, classified as, or otherwise determined to be, hazardous, extremely hazardous, toxic, radioactive, or a pollutant, contaminant or constituent under or pursuant to any regulation, Law, Order or requirement of Law or voluntary cleanup or brownfields program, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor and asbestos or asbestos-containing materials, lead and lead-based paint, and polychlorinated biphenyls and compounds containing them.

1.1.43 “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended.

1.1.44 “Law” means any statute, law, ordinance, ruling, consent decree, permit, policy, rule or regulation of, issued by, or entered into by any Governmental Unit and all judicial or administrative interpretations thereof and any common law doctrine.

1.1.45 “Leased Submerged Lands” means those portions of real property identified in Exhibit H to the Purchase Agreement as “Terminal” or “Refinery” parcels that have been leased by Hovensa subject to (i) the Submerged Land Lease, (ii) that

certain Contract, dated as of September 22, 1976 and by and between the GVI and HOVIC (as amended, supplemented or modified from time to time), and (iii) that certain letter agreement, dated as of October 14, 1998 by and between the GVI and HOVIC (as amended, supplemented or modified from time to time), pursuant to which the GVI consented to (a) the assignment by HOVIC to Hovensa of the Submerged Land Lease, provided that HOVIC agreed to remain the primary obligor thereunder and (b) the assignment and delegation by HOVIC to Hovensa of the rights and obligations of HOVIC under the contract referenced in subsection (ii) hereof.

1.1.46 “Liquidating Trust Assets” shall have the meaning ascribed to such term in the Plan.

1.1.47 “Liquidating Trustee” shall have the meaning ascribed to such term in the Plan.

1.1.48 “Manager” shall have the meaning ascribed to such term in the Plan.

1.1.49 “Option Agreement” means an option agreement entered into by and among the Purchaser and the Settlor pursuant to which the Purchaser will have the right to acquire some or all of the Option Refinery Property from the Debtor or the Environmental Response Trust, as applicable, for a purchase price of \$1 per acre.

1.1.50 “Option Refinery Parcels” means those parcels of property identified as a “Refinery” parcel in Exhibit H to the Purchase Agreement.

1.1.51 “Option Refinery Property” means the real property owned by the Settlor and described in Section 1.1(e) of the Seller Disclosure Letter attached to the Purchase Agreement (and including, for the avoidance of doubt, the Option Refinery Parcels), together with all easements, appurtenances, rights and other hereditaments appurtenant to such real property, which shall be transferred to the Environmental Response Trust on the Environmental Response Trust Effective Date pursuant to the terms of the Plan.

1.1.52 “Order” means any judgment, order, injunction, decree, writ or license issued or entered by or with any Governmental Unit or any arbitrator, whether preliminary, interlocutory or final, including any order entered by the Bankruptcy Court in the Bankruptcy Case.

1.1.53 “Parties” means the Settlor, the Environmental Response Trustee, and the Beneficiaries.

1.1.54 “Permit” means all permits, approvals, licenses, authorizations, certificates, rights, exemptions and Orders from Governmental Units.

1.1.55 “Perpetuities Period” means, with respect to a trust, the period, if any, defined by a RAP applicable to such trust, within which interests in the trust must vest in order to be valid.

1.1.56 “Person” means any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, charitable foundation, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

1.1.57 “Plan” shall have the meaning given in the recitals to this Agreement.

1.1.58 “Plan Supplement” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, to be filed in accordance therewith.

1.1.59 “Purchase Agreement” shall have the meaning given in the recitals to this Agreement.

1.1.60 “Purchase Agreement Excluded Assets” means those assets, rights, or privileges of the Settlor not acquired by the Purchaser in the Sale Transaction, as more fully described in section 2.2 of the Purchase Agreement. For the avoidance of doubt, the Option Refinery Property shall be viewed as a Purchase Agreement Excluded Asset until such time, if ever, that such property or a portion thereof is acquired by the Purchaser pursuant to the Option Agreement.

1.1.61 “Purchaser” means Limetree Bay Terminals, LLC, a limited liability company organized under the Laws of the U.S. Virgin Islands, together with its successors and permitted assigns.

1.1.62 “RAP” means any rule against perpetuities or a rule governing or limiting vesting, accumulations, the suspension of alienation, or the like.

1.1.63 “RCRA” means the Resource Conservation Recovery Act, as set forth in 42 U.S.C. § 6901 et seq. and any regulation or rule related thereto.

1.1.64 “RCRA Permit” means the Resource Conservation and Recovery Act Part B Permit No. VID 980536080, any amendments thereto, and any document that replaces such Permit.

1.1.65 “RCRA Post-Closure Permit” means the Post-Closure Permit No. PRD980536080 for Landfarm I.

1.1.66 “RCRA Trusts” means the two trust accounts that hold approximately \$36.6 million in Cash to provide financial assurance to the EPA related to Hovensa’s performance of certain obligations related to (a) closure of a hazardous waste management unit at the refinery and (b) the remediation and monitoring of soil and groundwater contamination and solid waste management units and areas of concern associated with its historic operations.

1.1.67 “Release” shall mean the disposing, discharging, injecting, spilling, leaking, pumping, pouring, leaching, dumping, emitting, escaping or emptying into or upon any air, soil, sediment, subsurface strata, surface water or groundwater.

1.1.68 “Remaining Assets” means the Purchase Agreement Excluded Assets other than the Government Parcels, the Reorganized Debtor Assets and the Liquidating Trust Assets. For the avoidance of doubt, the Remaining Assets shall include the Option Refinery Property, unless and until such property is transferred to the Purchaser pursuant to the Option Agreement.

1.1.69 “Remedial Action” means those activities associated with or relating to investigating, sampling, monitoring, preventing, minimizing, abating, cleaning up, removing, remediating, or mitigating with respect to Hazardous Materials in the environment.

1.1.70 “Remediation/Compliance Costs” means the costs and expenses of implementing the Environmental Remediation/Compliance Program.

1.1.71 “Reorganized Debtor” means the Debtor, on and after the Effective Date.

1.1.72 “Reorganized Debtor Assets” shall have the meaning ascribed to such term in the Plan.

1.1.73 “Retained Refinery Assets” means the Option Refinery Property, to the extent such Option Refinery Property has not been conveyed pursuant to the Option Agreement (and excluding, for the avoidance of doubt, the Above-Grade Refinery Assets).

1.1.74 “Sale Order” means the *Order (A)(I) Approving the Sale of the Debtor’s Assets, Free and Clear of All Liens, Claims, Encumbrances, and Interests; and (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (B) Granting Related Relief*, entered on December 1, 2015 [Docket No. 394].

1.1.75 “Sale Transaction” means that certain sale transaction between the Settlor and the Purchaser as set forth in the Purchase Agreement and the Sale Order.

1.1.76 “Settlor” shall have the meaning given in the preamble.

1.1.77 “Shared Services Agreement” means a shared services agreement entered into by and among the Purchaser and the Settlor in connection with the Sale Transaction, in form and substance reasonably satisfactory to the Purchaser and the Settlor in their sole discretion.

1.1.78 “Submerged Land Lease” means that certain Lease, dated as of October 16, 1976, by and between the GVI and HOVIC (as amended, supplemented or modified from time to time), pursuant to which the GVI leases certain reclaimed submerged lands specified therein to Hovensa (as assignee of HOVIC).

1.1.79 “Termination and Release Agreement” means that certain Termination and Release Agreement dated as of January 4, 2016 by and between the Settlor, the GVI and the Virgin Islands Bureau of Internal Revenue.

1.1.80 “Territorial Supplemental Environmental Projects” means, collectively, any territorial supplemental environmental projects as described in Section IX of the Consent Decree.

1.1.81 “Transaction Documents” shall have the meaning ascribed to such term in the Purchase Agreement.

1.1.82 “TSEP Account” means that certain escrow account in which the Settlor deposited \$4.875 million in Cash to be used for funding Territorial Supplemental Environmental Projects, in accordance with the Consent Decree.

1.1.83 “TSEP Escrow Agreement” means that certain TSEP Account Escrow Agreement, dated October 13, 2011, by and among Hovensa, the GVI, and JPMorgan Chase Bank, National Association.

1.1.84 “United States” means the United States of America and its departments and agencies.

All Capitalized terms not defined above shall have the meanings provided in the Plan.

ARTICLE II THE HOVENSA TRUST

2.1 Creation of and Transfer of Assets to the Hovensa Trust.

2.1.1 Pursuant to Article VIII of the Plan, the Parties hereby establish, on behalf of the Beneficiaries, and Hovensa and the Reorganized Debtor will, in accordance with the provisions of this section 2.1, transfer assign, and deliver, by quitclaim deed and other appropriate instruments, to the Environmental Response Trust, on behalf of the Beneficiaries, all of their respective rights, title and interests in and to the Environmental Response Trust Assets. Neither the Settlor nor the Reorganized Debtor shall retain any ownership or other residual interest whatsoever with respect to the Environmental Response Trust. The transfer of ownership by the Settlor and the Reorganized Debtor, as applicable, of the Environmental Response Trust Assets shall be a transfer of all of the Settlor’s and the Reorganized Debtor’s respective rights, title and interests therein, and the transfer shall be (i) “as is” and “where is”, with no warranties of any nature; (ii) free and clear of all liens, claims, encumbrances, charges and other interests against the Settlor or the Reorganized Debtor, including mechanics’ liens and other liens for the payments of monetary claims, such as property taxes, or other monetary claims asserted or that could have been asserted in the bankruptcy proceeding, but shall remain subject to any existing *in rem* claims that do not secure payment of monetary claims (such as easements or deed restrictions); (iii) subject to any rights of the United States and the GVI under the Plan; and (iv) accomplished by quitclaim deed

and/or personal property bill of sale without warranty, with all such conveyance documents to be agreed to in form by the Settlor and the Reorganized Debtor, as applicable, and the Environmental Response Trustee, provided that in no event shall the conveyance include any warranty by the grantor by virtue of the grant document or statutory or common law or otherwise. The Settlor and the Reorganized Debtor hereby disclaim any and all express or implied representations or warranties, including any representations or warranties of any kind or nature, express or implied, as to the condition, value or quality of such assets or other property, and specifically disclaims any representation or warranty of merchantability, usage, suitability or fitness for any particular purpose with respect to such assets or other property, any part thereof, the workmanship thereof, and the absence of any defects therein, whether latent or patent, it being understood that such assets are being acquired “as is, where is,” and in their condition as of the Environmental Response Trust Effective Date. The grantee for each such deed and personal property bill of sale shall be the Environmental Response Trust by and through [Trustee Entity], not individually but solely in its representative capacity as Environmental Response Trustee. The Settlor and the Reorganized Debtor, as applicable, will reasonably cooperate with the United States (including the EPA), the GVI (including the DPNR), and the Environmental Response Trustee to deliver to the title company (which will record or cause to be recorded in the appropriate real property records) the transfer documents as soon as reasonably practicable, but not to exceed [thirty (30) days] after the Environmental Response Trust Effective Date. The Settlor or the Reorganized Debtor, as applicable, shall pay the recording costs to the title company related to the title transfer. The Settlor or the Reorganized Debtor shall pay to the applicable tax authorities on or prior to the Environmental Response Trust Effective Date all real property taxes relating to the Remaining Assets due on or before the Environmental Response Trust Effective Date. The Settlor or the Reorganized Debtor, as applicable, and the Environmental Response Trust shall prorate the real property taxes accruing to or becoming a lien on the Remaining Assets during the calendar year of the Environmental Response Trust Effective Date, and the Settlor or the Reorganized Debtor, as applicable, shall have paid to the Environmental Response Trust the Settlor’s pro-rata share of such real property taxes as of the Environmental Response Trust Effective Date. If the actual bills for such real property taxes have not been issued, then such proration shall be based on an amount equal to such real property taxes for the prior year or tax period, which shall constitute a final proration and not be subject to further adjustment. As of the Environmental Response Trust Effective Date, the Environmental Response Trust shall be responsible for paying all real property taxes first coming due following the Environmental Response Trust Effective Date relating to the Remaining Assets. The Settlor or the Reorganized Debtor, as applicable, shall execute, or cause to be executed, and record, if necessary, all necessary releases of any liens or security interests held by the Settlor or the Reorganized Debtor against the Remaining Assets. The Environmental Response Trust hereby accepts and agrees to hold the Environmental Response Trust Assets in the Environmental Response Trust for the benefit of the Beneficiaries for the purposes described in Section 2.3 below, subject to the terms of Article VIII of the Plan, this Agreement, and any applicable orders of the Court.

2.1.2 On the Environmental Response Trust Effective Date, all the Environmental Response Trust Assets (including the ERT Cash Payment) other than the

ERT Cash Distributions (which shall be made in accordance with section 2.1.3 hereof), will vest and be deemed to vest in the Environmental Response Trust in accordance with section 2.1.1 of this Agreement.

2.1.3 Additional Funding for the Environmental Response Trustee. On each subsequent Environmental Response Trust Transfer Date, the Reorganized Debtor shall cause to be transferred to the Environmental Response Trust each ERT Cash Distribution, and each such ERT Cash Distribution will vest and be deemed to vest in the Environmental Response Trust in accordance with section 2.1.1.

2.1.4 The Debtor and the Reorganized Debtor shall have no reversionary or further interest in or with respect to any Environmental Response Trust Assets and any ERT Cash Distributions, in each case, effective upon the transfer thereof to the Environmental Response Trust.

2.1.5 Upon the Reorganized Debtor's filing of the Final Certification with the Bankruptcy Court, (a) the Reorganized Debtor shall be deemed to be dissolved without any further action by the Reorganized Debtor, and (b) the remaining Reorganized Debtor Assets, as identified in the Final Certification, shall vest and be deemed to vest in the Environmental Response Trust in accordance with section 1141 of the Bankruptcy Code, free and clear of all liens, claims, and interests, except as otherwise specifically provided in the Plan or in the Confirmation Order. Upon the transfer by the Reorganized Debtor of the Reorganized Debtor Assets to the Environmental Response Trust, the Reorganized Debtor will have no reversionary or further interest in or with respect to any Reorganized Debtor Assets.

2.1.6 Nothing herein shall in any way alter the terms of the agreements governing the Accident Trust or the RCRA Trusts (other than substituting the Environmental Response Trust for the Settlor as the grantor of the trusts) including, without limitation, any provisions of those trusts indicating that EPA is the sole beneficiary of such trusts and that EPA has the sole discretion to determine the amount of funds that need to be deposited into such trusts and how any funds in such trusts will be disbursed. For the avoidance of doubt, no person other than EPA shall have any right to determine [the amount of funds needed to be deposited into the RCRA Trusts or] how the funds in the RCRA Trusts are disbursed.

2.2 Creation of the trust accounts.

2.2.1 Upon receipt of the Environmental Response Trust Assets delivered to the Environmental Trust on the Environmental Response Trust Effective Date, the Environmental Response Trustee shall create an Environmental Response Trust Remediation Cost Account within the Environmental Response Trust. The purpose of the Environmental Response Trust Remediation Cost Account shall be to pay Remediation/Compliance Costs and for funding certain future regulatory fees and oversight costs of the EPA and the GVI with respect to the Facility. The funds in the Environmental Response Trust Remediation Cost Account shall be held in trust for use in implementing the Environmental Remediation/Compliance Program [and for complying

with other environmental obligations imposed by applicable Governmental Units, including reporting requirements with respect to the Facility], and may not be used for any other purpose except as expressly provided in Section 4.4.2 below. The initial funding of the Environmental Response Trust Remediation Cost Account shall be the total of the ERT Cash Payment, except for the amount allocated to the Environmental Response Trust Administrative Account as described below. The Environmental Response Trustee shall also create a segregated Environmental Response Trust Administrative Account in the amount of [\$__.00]. The separate accounts described in this section 2.2 are referred to in this Agreement individually as an “Environmental Response Trust Account” and collectively as the “Environmental Response Trust Accounts.” Subject to Sections 4.4.2, the income and gains from any investment of the Environmental Response Trust Assets shall be allocated, paid and credited to such Environmental Response Trust Account.

2.2.2 The Environmental Response Trust Accounts may be divided into such number of trust subaccounts dedicated for specific uses as may be deemed necessary in the sole discretion of the Environmental Response Trustee (each, a “Trust Subaccount”) to comply with the terms of, and implement, Article VIII of the Plan and this Agreement.

2.3 Objective and Purpose.

2.3.1 The exclusive purpose and function of the Environmental Response Trust is to carry out the Environmental Remediation/Compliance Program and, thereby, to ensure appropriate clean-up of the Facility, as required by the RCRA Permit, RCRA Post-Closure Permit and Environmental Law. In carrying out this purpose and function, the Environmental Response Trust will: (i) act as successor to the Settlor solely for the purpose of paying for any post-Environmental Response Trust Effective Date costs and expenses associated with the Environmental Remediation/Compliance Program or the Environmental Response Trust Assets and associated costs and fees incurred by the Environmental Response Trust in accordance with Article VIII of the Plan, the Confirmation Order, the Termination and Release Agreement, and this Agreement; (ii) own the Remaining Assets; (iii) implement the Environmental Remediation/Compliance Program; (iv) pay certain regulatory fees and oversight costs related to compliance with the Environmental Remediation/Compliance Program or this Agreement; and (v) sell, transfer or otherwise dispose or facilitate the reuse of all or part of the Environmental Response Trust Assets, if possible, all as provided herein with no objective or authority to engage in any trade or business unless such trade or business is approved by the Beneficiaries. The proceeds of the sale, transfer or other disposition of all or a part of the real property within the Trust shall be held in the custody of the Environmental Remediation Trustee, and may be used for funding any aspect of the Environmental Remediation/Compliance Program and/or the Administrative Costs that have been approved by the DPNR and the EPA, whether such sale, transfer or other disposition occurs before or after the original funds in the Trust have been exhausted. The performance by the Environmental Response Trustee of its duties under this Agreement, including but not limited to the sale, lease or other disposition of some or all of the Environmental Response Trust Assets, shall not be considered to be the

Environmental Response Trustee's engaging in a trade or business. The Bankruptcy Court shall retain continuing jurisdiction over the Environmental Response Trust.

2.3.2 In carrying out the Environmental Remediation/Compliance Program, the Environmental Response Trust will aim, to the extent reasonably practicable, to employ residents of the United States Virgin Islands (as defined in the Operating Agreement between the GVI and the Purchaser) and use contractors based in the United States Virgin Islands[, with the goal of ensuring that 80% of all jobs related to the Environmental Remediation/Compliance Program are filled by residents of the United States Virgin Islands, and, particularly, residents who were formally incarcerated or unemployed.]

2.4 Holder of Environmental Response Trust Assets.

The Environmental Response Trust shall be the exclusive holder of the Environmental Response Trust Assets and Environmental Response Trust Accounts described herein for purposes of 31 U.S.C. § 3713(b).

2.5 Work Performed and Disbursements by the Environmental Response Trust.

Payments from the Environmental Response Trust shall be made in accordance with Section 3.2 of this Agreement.

2.6 Access to Environmental Information.

The Environmental Response Trust Books and Records held by the Settlor or the Reorganized Debtor, as applicable, shall be provided to the Environmental Response Trust. Such information shall be provided within [two] months of the Environmental Response Trust Effective Date.

2.7 Assumption of the Settlor's Disbursement Obligations Pursuant to Consent Decree.

As of the Environmental Response Trust Effective Date, the Environmental Response Trust shall assume the Settlor's obligations to approve the disbursement of funds from the TSEP Account to the GVI for Territorial Supplemental Environmental Projects [approved in accordance with the Consent Decree.]

2.8 Payment of Cure Costs Associated with Assigned Contracts.

Any Cure Obligations under each Executory Contract and Unexpired Lease assumed by the Debtor or the Reorganized Debtor and assigned to the Environmental Response Trust in accordance with Article V.B of the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Obligation in Cash on the Effective Date or as soon as reasonably practicable thereafter, subject to the limitations described below, by the Environmental Response Trust from the Environmental Response Trust Remediation Cost Account and/or the Environmental Response Trust Administrative Account as determined by the Environmental Response Trustee. In the event of a dispute regarding (a) the amount of the Cure

Obligation, (b) the ability of the Environmental Response Trust's to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease, or (c) any other matter pertaining to assumption, the Cure Obligations shall be satisfied following the later to occur of the Effective Date or entry of a Final Order or Orders resolving the dispute and approving the assumption; provided, that prior to the Effective Date, the Debtor, and on and after the Effective Date, the Environmental Response Trustee, may settle any dispute regarding the amount of any Cure Obligation with respect to an Executory Contract or Unexpired Lease designated to be assigned to the Environmental Response Trust without any further notice to any party or any action, order, or approval of the Bankruptcy Court.

2.9 Environmental Response Trust Cooperation Obligations.

2.9.1 Upon written request of the GVI or the EPA, the Environmental Response Trust shall reasonably cooperate with the Environmental Response Trust Beneficiaries to (a) facilitate the re-use of any portions of the Remaining Assets to the extent permitted by Law and (b) provide all documents or information that are reasonably requested by the GVI or the EPA (except for documents and information that are subject to a legal privilege).

2.9.2 The Environmental Response Trust will use commercially reasonable efforts to allow the Purchaser to fulfill its obligations to the GVI, DPNR, and any other Governmental Unit to operate, maintain and comply with the RCRA Permit, including by (1) providing the Purchaser with reasonable access to the facilities, in accordance with the Easement Agreement by and between Limetree Bay Terminals, LLC and HOVENSA, LLC dated January 4, 2016 and the Easement Agreement by and between HOVENSA, LLC and Limetree Bay Terminals, LLC dated January 4, 2016, and (2) cooperating with the Purchaser to the extent reasonably necessary for the Purchaser to implement and maintain any institutional and engineering controls necessary to carry out the Purchaser's obligations to the GVI, DPNR, and any other Governmental Unit to operate, maintain and comply with the RCRA Permit.

2.9.3 The Environmental Response Trustee shall coordinate with the Liquidating Trustee and the Manager to develop a document sharing, retention, and maintenance policy with respect to the Reorganized Debtor Books and Records, the Liquidating Trust Books and Records, and the Environmental Response Trust Books and Records, the terms of which shall be agreed upon among the Reorganized Debtor, the Liquidating Trustee, and the Environmental Response Trustee.

2.9.4 The Environmental Response Trust shall reasonably cooperate with the Liquidating Trustee and the Manager and shall provide or grant access to readily available documents and information, including privileged documents and information, relating to or concerning, (a) with respect to the Liquidating Trustee, the Claims in Classes 4, 5, and 6, and (b) with respect to the Manager, the Administrative, Priority Tax, Professional Fee, Class 1, and Class 2 Claims. The Environmental Response Trust shall generally assist (a) the Liquidating Trustee in the adjustment and allowance of Claims in Classes 4, 5, and 6, as may be reasonably requested by the Liquidating Trustee, and (b)

the Reorganized Debtor, in connection with the adjustment and allowance of the Administrative, Priority Tax, Professional Fee, Class 1, and Class 2 Claims, as may be reasonably requested by the Manager.

2.10 Investment and Safekeeping of Environmental Response Trust Assets.

2.10.1 The Environmental Response Trust Assets, until sold or spent as provided herein and in Article VIII of the Plan, shall be held in trust and segregated. All interest, dividends, and other revenue earned in an Environmental Response Trust Account shall be retained in the respective Environmental Response Trust Account and used only for the same purposes as the principal in that account, as set forth in this Agreement and Article VIII of the Plan, subject to any reallocation approved by [the joint agreement of the EPA and the GVI], that is in accordance with the terms of this Agreement and Article VIII of the Plan. The Environmental Response Trustee shall be under no liability for interest or producing income on any moneys received by the Environmental Response Trust hereunder and held for distribution or payment as provided in this Agreement, except as such interest shall actually be received by the Environmental Response Trustee. Investments of any moneys held by the Environmental Response Trust shall be administered in a manner consistent with the standards and requirements applicable to a trustee in connection with a Chapter 7 liquidation; provided, however, that the right and power of the Environmental Response Trust to invest the Environmental Response Trust Assets, the Environmental Response Trust Proceeds, or any income earned by the Environmental Response Trust, shall be limited to the right and power to invest such assets (pending periodic distributions in accordance with Article III hereof) in demand and time deposits, such as certificates of deposit, in banks or other savings institutions whose deposits are federally insured, or other liquid investments, such as Treasury bills; and provided further, that the scope of any such permissible investments shall be limited to include only those investments, unless expanded to include any additional types of investments as permitted by [the joint approval of the EPA and the GVI], and these additional types of investments shall be specifically detailed in writing.

2.10.2 The Environmental Response Trustee is expressly prohibited from holding any or all of the Environmental Response Trust Assets in a common, commingled or collective trust fund and from holding any or all of the Environmental Response Trust Assets in a common, commingled or collective trust fund with the assets of any other entity. However, the funds provided for administrative expenses can be held in one account.

2.10.3 Nothing in this Section shall be construed as authorizing the Environmental Response Trustee to cause the Environmental Response Trust to carry on any business or to divide the gains therefrom, including without limitation, the business of an investment company, a company “controlled” by an “investment company,” or required to register as such under the Investment Company Act of 1940, as amended. The sole purpose of this Section 2.10 is to authorize the investment of the funds in the Environmental Response Trust Accounts or any portions thereof as may be reasonably

prudent pending use of the proceeds for the purposes of the Environmental Response Trust.

2.10.4 [The Environmental Response Trust Parties shall not incur any liability for following any written direction or order to act (or to refrain to act) from any Beneficiary regarding the investment or safekeeping of Environmental Response Trust Assets so long as such written direction is not inconsistent with this Agreement and the Plan.]

2.11 Insurance Policy to Cover Unknown Contamination.

2.11.1 The Environmental Response Trustee shall obtain and maintain in full force and effect the ERT Agreed Insurance Policies, and shall take commercially reasonable efforts to obtain such policy or policies by January 29, 2016.

2.11.2 Upon the occurrence of a condition or event that qualifies for coverage under the Environmental Response Trust Insurance Policies, the Environmental Response Trust will seek payment pursuant to the applicable Environmental Response Trust Insurance Policies.

2.12 Access and Deed Restrictions.

The Environmental Response Trustee shall provide the EPA, the GVI, and their representatives and contractors access to the Remaining Assets at all times for the purposes of overseeing the Environmental Remediation/Compliance Program at the Facility. Nothing herein shall affect the EPA's or DPNR's access rights otherwise provided by Law. The Environmental Response Trustee shall implement any institutional controls or deed restrictions reasonably requested by the EPA and the GVI with respect to the Remaining Assets. The Environmental Response Trustee shall execute and record with the appropriate recorder's office any institutional controls or deed restrictions reasonably requested by the EPA and the GVI for restrictions on use of the Remaining Assets in order to protect public health, welfare or safety or the environment or ensure non-interference with or protectiveness of any action. Any existing institutional controls or deed restrictions of record as to the Remaining Assets prior to the Effective Date of the Plan shall survive confirmation of the Plan. The Environmental Response Trustee shall abide by the terms of any institutional controls or deed restrictions in place or of record as to the Remaining Assets.

2.13 Arrangements with the Purchaser.

2.13.1 The Environmental Response Trustee shall (i) seek reimbursement from Purchaser for (or request that the Purchaser pay on the Environmental Response Trust's behalf) reasonable and documented out-of-pocket costs and expenses incurred in connection with the winding up of Hovensa's affairs and the performance of its obligations under the Transaction Documents, if any, and (ii) make any required payments to the Purchaser from reimbursements from the RCRA Trusts, in each case subject to the terms and conditions set forth in Section 7.33 of the Purchase Agreement and section 2.1.6 of this Agreement. The Purchaser shall provide such

reimbursement, or pay on the Environmental Response Trust's behalf, within [15] calendar days of receipt of a request by the Trustee.

2.13.2 The Environmental Response Trustee shall have all other rights of the Settlor based on the Arrangements with the Purchaser.

2.14 Insurance.

The Environmental Response Trust may maintain customary insurance coverage for the protection of Entities serving as administrators and overseers of the Environmental Response Trust on and after the Environmental Response Trust Effective Date.

2.15 Termination.

Consistent with the terms of Article VIII of the Plan and subject to the fulfillment of all of its legal responsibilities, the Environmental Response Trustee shall not unduly prolong the duration of the Environmental Response Trust past the time reasonably necessary to fulfill the purposes of the Environmental Response Trust, and shall at all times endeavor to resolve, settle, or otherwise satisfy all claims of the Environmental Response Trust Beneficiaries, and to effect the distribution of Environmental Response Trust Assets and Environmental Response Trust Proceeds and other receipts relating thereto to the Beneficiaries and creditors of the Environmental Response Trust in accordance with the terms hereof, and to terminate the Environmental Response Trust as soon as practicable consistent with this Agreement and Article VIII of the Plan, but in no event prior to the completion of corrective action or other work required under the RCRA Permit and RCRA Post-Closure Permit.

2.16 Property Disposition.

2.16.1 The Environmental Response Trustee may, at any time, seek the approval of the EPA and the DPNR for the sale or lease or other disposition of all or part of the Remaining Assets. Subject to the approval of the EPA and the DPNR, the Environmental Response Trustee may propose a sale, lease, or disposition of the Remaining Assets that includes funding from, or the retention of some portion of liability by, the respective Environmental Response Trust Remediation Cost Account and/or the Environmental Response Trust Administrative Account, provided that the net effect of any proposed sale, lease or disposition is to lessen the total financial obligations and liabilities as would otherwise be incurred in the absence of any such sale, lease, or disposition and/or to facilitate the re-use of the Remaining Assets pursuant to a brownfield or similar program. In the event of any approved sale or lease or other disposition under this section 2.16.1, any net proceeds from the sale or lease or other disposition shall be paid to the Environmental Response Trust Remediation Cost Accounts to fund the Environmental Remediation/Compliance Program.

2.16.2 The parties agree that, to the maximum extent permitted by applicable law, no RAP shall apply to the Environmental Response Trust. To the extent that any RAP applies to the Environmental Response Trust, the Environmental Response Trust shall automatically terminate upon the expiration of the applicable Perpetuities Period; provided, that to the extent any RAP applies differently to different kinds of

property held in trust, the Perpetuities Period shall be determined separately for each such kind of property. If the Environmental Response Trust is terminated in whole or in part pursuant to this Subsection, title to the relevant Property or Properties as to which the Environmental Response Trust is terminated shall be transferred outright and free of trust to or at the direction of [the EPA and GVI], provided, however, that the disposition of all relevant Property or Properties shall be governed by applicable Law, or by agreement of the Environmental Response Trustee, the EPA, and the GVI, or by Order of the Bankruptcy Court, and further provided that neither the EPA nor the GVI will be required to accept an ownership interest in the relevant Environmental Response Trust Asset or Environmental Response Trust Assets as to which the Environmental Response Trust is terminated.

ARTICLE III WORK AND DISTRIBUTIONS

3.1 Environmental Response Trust Accounts.

The Environmental Response Trustee shall establish, maintain and hold the Environmental Response Trust Accounts consistent with the Article VIII of Plan and Section 2.1 of this Agreement, to administer the Environmental Response Trust Assets and distributions therefrom. The Environmental Response Trustee shall also maintain a dedicated Environmental Response Trust Administrative Account for administrative funds, which shall be used solely to pay the Administrative Costs as set forth herein.

3.2 Payments by the Environmental Response Trust.

The Environmental Response Trust shall aim to minimize administrative expenses in order to preserve funding for Remediation/Compliance Costs. Within sixty (60) days following the Environmental Response Trust Effective Date in the first year and thereafter by or before January 1 of each calendar year, the Environmental Response Trustee shall provide the EPA and the DPNR with balance statements and proposed work plans and budgets as described in Sections 3.2.1 and 3.2.2 of this Agreement. The Environmental Response Trustee shall not exceed by more than 10% any expense that has not been provided for in the applicable budget (or revised budget) approved by the [EPA, after consultation with the DPNR.] Notwithstanding the foregoing, nothing contained in this Section 3.2 shall preclude the Environmental Response Trust from approving the disbursement of funds from the TSEP Account to the GVI for Territorial Supplemental Environmental Projects [approved in accordance with the Consent Decree.]

3.2.1 Administrative Expenses of the Environmental Response Trust.

Within sixty (60) days following the Environmental Response Trust Effective Date in the first year and thereafter by January 1 of each year, the Environmental Response Trustee shall provide the EPA and the DPNR with a work plan and budget for the following annual period for anticipated Administrative Costs of the Environmental Response Trust, which shall be approved upon the approval of [the EPA following consultation with the DPNR.] If disapproved, such work plan and/or budget shall be revised and resubmitted as expeditiously as possible. Such annual budget shall

include a future year forecast of administrative expenditures, with annual details for at least the next three years (or such longer period as the [EPA, after consultation with DPNR,] shall reasonably request). The Environmental Response Trust shall regularly, but not less often than annually, and otherwise upon the reasonable request of any Beneficiary, provide documentation to the Beneficiary to substantiate compliance with the applicable approved work plan and budget and application of Environmental Response Trust Assets consistently with the terms of this Agreement and Article VIII of the Plan. The approved budget shall be funded by proceeds set aside and otherwise made available to the Environmental Response Trust as provided in the Plan.

3.2.2 Environmental Costs of the Environmental Response Trust.

The Environmental Response Trustee shall prepare balance statements and annual work plans and budgets of projected expenditures from the Environmental Response Trust Remediation Cost Account. The first budget for the remainder of the current calendar year and the next calendar year shall be submitted within sixty (60) days following the Environmental Response Trust Effective Date and annual work plans and budgets shall be submitted thereafter on or before each January 1 during the term of the Environmental Response Trust. The [EPA, after consultation with the DPNR] shall have the authority to approve or disapprove the proposed work plan and budget for the Environmental Response Trust Remediation Cost Account. If disapproved, a work plan and/or budget shall be revised and resubmitted as expeditiously as possible. No expenses may be incurred or paid by the Environmental Response Trustee that are inconsistent with an approved budget, unless the EPA [or the GVI] approve an emergency response action or a revised budget; provided, however, that the Environmental Response Trustee may incur or pay ongoing or recurring expenses approved in the prior year's budget that occur between the time a proposed annual budget is submitted and the time it is approved. Further, by January 1 of each year during the term of the Environmental Response Trust and within nine (9) months after termination of the Environmental Response Trust, the Environmental Response Trustee shall prepare and submit to the Beneficiaries an annual report with respect to the Environmental Response Trust Remediation Cost Account and its annual work plan and budget. The annual report shall pertain to the prior calendar year, or if the report is a final report, the period from the end of the period covered by the most recent annual report to the termination of the Environmental Response Trust Remediation Cost Account.

3.3 Reports.

The Environmental Response Trustee shall prepare and file with EPA and the GVI all reports it is required to file, including, without limitation, all reports it is required to file under the RCRA Permit and the Consent Decree.

3.4 Manner of Payment.

Cash payments made by the Environmental Response Trust pursuant to Article VIII of the Plan and this Agreement shall be in United States dollars by checks drawn on a domestic bank, selected by the Environmental Response Trustee, whose deposits are federally insured, or

by wire transfer from such a domestic bank, at the option of the Environmental Response Trustee.

3.5 Unclaimed Distributions.

In the event that there are funds in excess of the amount required to make full payment pursuant to this Article III, after due notice to any affected creditor(s) of the Environmental Response Trust, the amount shall be paid [to such entities as directed by the Bankruptcy Court.]

ARTICLE IV THE ENVIRONMENTAL RESPONSE TRUSTEE

4.1 Appointment.

[Trustee Entity] serves, not individually but solely in its representative capacity, as the Environmental Response Trustee to administer the Environmental Response Trust and the Environmental Response Trust Accounts, in accordance with Article VIII of the Plan and this Agreement, and the Environmental Response Trustee hereby accepts such appointment and agrees to serve in such representative capacity, effective upon the Environmental Response Trust Effective Date. If the Environmental Response Trustee is removed and a successor Environmental Response Trustee is not appointed by the expiration of the earlier of the Environmental Response Trustee's term, as set forth in Section 4.13.2, or within 30 days, the Court may reappoint the Environmental Response Trustee or appoint a successor Environmental Response Trustee.

4.2 Generally.

The Environmental Response Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of the Environmental Response Trust and consistent with Article VIII of the Plan, and not otherwise. The Environmental Response Trustee shall have the authority to bind the Environmental Response Trust, and any successor Environmental Response Trustee, or successor or assign of the Environmental Response Trust, but shall for all purposes hereunder be acting in its representative capacity as Environmental Response Trustee and not individually. Notwithstanding anything to the contrary contained herein, the Environmental Response Trustee shall not be required to take action or omit to take any action if, after the advice of counsel, the Environmental Response Trustee believes in good faith such action or omission is not consistent with the Environmental Response Trustee's fiduciary duties. The Environmental Response Trustee shall have no obligations to perform any activities for which the Environmental Response Trust Remediation Cost Account lacks sufficient funds.

4.3 Powers.

In connection with the administration of the Environmental Response Trust, except as otherwise set forth in this Agreement or Article VIII of the Plan, the Environmental Response Trustee is authorized to perform any and all acts necessary to accomplish the purposes of the

Environmental Response Trust. The powers of the Environmental Response Trustee shall, without any further Court approval or order, include, without limitation, each of the following: (i) to receive, manage, invest, supervise and protect the Environmental Response Trust Assets, withdraw, make distributions and pay taxes and other obligations owed by the Environmental Response Trust or the Environmental Response Trust Accounts from funds held by the Environmental Response Trustee and/or the Environmental Response Trust (or the Environmental Response Trust Accounts) in accordance with Article VIII of the Plan and this Agreement, and withhold and pay to the appropriate taxing authority any withholding taxes on distributions from the Environmental Response Trust; (ii) to engage employees and professional Persons to assist the Environmental Response Trust and/or the Environmental Response Trustee with respect to the responsibilities described herein; (iii) to make distributions of the Environmental Response Trust Assets from the Environmental Response Trust Accounts for the purposes contemplated in this Agreement and in Article VIII of the Plan; and (iv) to effect all actions and execute all agreements, instruments and other documents necessary to implement this Agreement, including to exercise such other powers as may be vested in or assumed by the Environmental Response Trust and/or the Environmental Response Trustee pursuant to this Agreement and any order of a Court or as may be necessary and proper to carry out the provisions of this Agreement and Article VIII of the Plan. No Person dealing with the Environmental Response Trust shall be obligated to inquire into the authority of the Environmental Response Trustee in connection with the protection, conservation or disposition of Environmental Response Trust Assets. The Environmental Response Trustee is authorized to execute and deliver all documents on behalf of the Environmental Response Trust to accomplish the purposes of this Agreement and Article VIII of the Plan.

4.4 Management of Environmental Response Trust Assets.

4.4.1 The Environmental Response Trustee shall use the Environmental Response Trust Remediation Cost Account to pay for post-Environmental Response Trust Effective Date costs and expenses associated with the Environmental Response Trust Assets and the Environmental Remediation/Compliance Program for the Facility, and associated costs and fees incurred by the Environmental Response Trust in accordance with Article VIII of the Plan, the Confirmation Order, and this Agreement. The Environmental Response Trustee shall use the Environmental Response Trust Administrative Account to fund the Administrative Costs of the Environmental Response Trust in accordance with section 3.2.1 of this Agreement.

4.4.2 After the EPA and the GVI have confirmed to the Environmental Response Trustee that all final actions have been completed and all final Remediation/Compliance Costs have been disbursed from the Environmental Response Trust Remediation Cost Account or any Trust Subaccount thereof, and any liabilities of the Environmental Response Trust have been resolved and settled, any funds remaining in the Environmental Response Trust Remediation Cost Account or any Trust Subaccount thereof shall be transferred (a) first, to the Purchaser, solely to the extent the Purchaser previously provided such funds to the Environmental Response Trust; and (b) then, split evenly between the EPA and the DPNR for use in environmental remediation projects in the United States Virgin Islands; provided, however, that any

funds remaining in the TSEP Account shall be released to the Environmental Response Trust if so required by the terms of the Consent Decree.

4.4.3 Annually, beginning with the first year after the Environmental Response Trust Effective Date, the Environmental Response Trustee shall provide the EPA and the GVI with an update of anticipated future Administrative Costs of the Environmental Response Trust. If there is an anticipated shortfall in the Environmental Response Trust Administrative Account based on anticipated future Administrative Costs of the Environmental Response Trust, funds from the Environmental Response Trust Remediation Cost Account may be transferred to the Environmental Response Trust Administrative Account, upon the joint discretion of the EPA and the GVI.

4.5 Accounting.

The Environmental Response Trustee shall maintain proper books, records, and accounts relating to all transactions pertaining to the Environmental Response Trust, and the assets and liabilities of the Environmental Response Trust in such detail and for such period of time as may be necessary to enable the Environmental Response Trustee to make full and proper accounting in respect thereof in accordance with Article VI below and to comply with applicable provisions of Law and good accounting practices. Except as otherwise provided herein or by the Plan, the Environmental Response Trustee shall not be required to file any accounting or seek approval of the Court with respect to the administration of the Environmental Response Trust, or as a condition for making any payment or distribution out of the Environmental Response Trust Assets or Environmental Response Trust Proceeds. Beneficiaries shall have the right upon fourteen (14) days' prior written notice delivered to the Environmental Response Trustee to inspect the Environmental Response Trust's books and records or to have copies of particular books and records sent to the Beneficiaries.

4.6 Amendment of TSEP Escrow Agreement.

The Environmental Response Trustee shall amend the TSEP Escrow Agreement to have a five-year term, such term to be automatically renewed so long as money remains in the account pursuant to the terms of the Consent Decree.

4.7 Other Professionals.

4.7.1 The Environmental Response Trustee shall have the authority to retain and pay such third parties as the Environmental Response Trustee, in accordance with a budget approved by the EPA and the GVI, may deem necessary or appropriate to assist the Environmental Response Trustee in carrying out its powers and duties under this Agreement and the Plan, including, without limitation, (i) counsel to the Environmental Response Trustee and Environmental Response Trust[, which shall include counsel admitted to practice in the United States Virgin Islands and approved by the GVI], (ii) a public accounting firm to perform such reviews and/or audits of the financial books and records of the Environmental Response Trust as may be appropriate in the Environmental Response Trustee's sole discretion and to prepare and file any tax returns or informational returns for the Environmental Response Trust as may be

required, and (iii) such environmental consultants as the Environmental Response Trustee may deem necessary. The Environmental Response Trustee may commit the Environmental Response Trust to pay all such persons compensation for services rendered and expenses incurred.

4.7.2 The Environmental Response Trustee shall retain Industrial Economics Consultants in Cambridge, Massachusetts to study the Facility's impacts on the Facility's marine environment at a cost not to exceed \$320,000. This study will be carried out in accordance with specifications approved by, and subject to the oversight of, the GVI[, after consultation with the EPA,] and after consultation with the Environmental Response Trust to satisfy any of the Environmental Response Trustee's fiduciary responsibilities, in accordance with Article VIII of the Plan and this Agreement.

4.8 Limitation of the Environmental Response Trustee's Authority.

The Environmental Response Trust and the Environmental Response Trustee shall not and are not authorized to (i) engage in any trade or business with respect to the Environmental Response Trust Assets or any proceeds therefrom except as and to the extent the same is deemed in good faith by the Environmental Response Trustee to be reasonably necessary or proper for the conservation or protection of the Environmental Response Trust Assets, or the fulfillment of the purposes of the Environmental Response Trust; (ii) take any actions that would cause the Environmental Response Trust to fail to qualify as a trust for federal income tax purposes; (iii) take any action that would cause Environmental Response Trust Assets to revert in Hovensa within the meaning of Section 676 of the Internal Revenue Code; (iv) bring cost recovery, contribution or other claims against the former owners of Hovensa under Environmental Laws, including, without limitation, the Comprehensive Environmental Response, Compensation and Recovery Act (42 U.S.C. §§ 9601 *et. seq.*); or (v) bring cost recovery, contribution or other claims against the GVI under Environmental Laws, including, without limitation, the Comprehensive Environmental Response, Compensation and Recovery Act (42 U.S.C. §§ 9601 *et. seq.*), provided that the Environmental Response Trust and the Environmental Response Trustee may assert cost recovery, contribution or other claims against the GVI on account of any liability or other obligations arising from the acts or omissions of the GVI.

4.9 Reliance by the Environmental Response Trust Parties.

Except as may otherwise be provided herein: (a) the Environmental Response Trust Parties may rely on, and shall be protected from liability 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 Environmental Response Trust Parties may 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, except in the case of fraud or willful misconduct by the Environmental Response Trust Party; and (c) persons dealing with the Environmental Response Trust Parties shall look only to the Environmental Response Trust Assets and/or Environmental Response Trust Proceeds to satisfy any liability incurred by the Environmental Response Trust Parties to such person in carrying out the terms of this Agreement

or any order of a Court, and the Environmental Response Trust Parties shall have no personal obligations to satisfy any such liability other than as provided in Section 4.12.

4.10 Compensation of the Environmental Response Trustee.

The Environmental Response Trust shall pay its own reasonable and necessary costs and expenses, and shall reimburse the Environmental Response Trustee for its actual, reasonable out-of-pocket fees and expenses to the extent incurred by the Environmental Response Trustee in connection with the Environmental Response Trustee's duties hereunder, including, without limitation, necessary travel, lodging, office rent (to be paid directly by the Environmental Response Trust), postage, photocopying, telephone and facsimile charges upon receipt of periodic billings, all in accordance with the approved annual budget or fee schedule. The Environmental Response Trustee, and employees of the Environmental Response Trust and the Environmental Response Trustee, who perform services for the Environmental Response Trust shall be entitled to receive reasonable compensation for services rendered on behalf of the Environmental Response Trust in accordance with the approved annual budget or fee schedule.

The Environmental Response Trust Assets and Environmental Response Trust Proceeds shall be subject to the claims of the Environmental Response Trustee, and the Environmental Response Trustee shall be entitled to reimburse itself out of any available cash in the Environmental Response Trust Administrative Account, and the Environmental Response Trust shall be obligated to pay, for actual out-of-pocket expenses and for actual hours worked.

All compensation and other amounts payable to the Environmental Response Trustee shall be paid from the Environmental Response Trust Assets and/or Environmental Response Trust Proceeds.

4.11 Liability of the Parties.

4.11.1 In no event shall any of the Environmental Response Trust Parties or Beneficiaries be held liable to any third parties for any liability, action, or inaction of any other party, including the Settlor or any other Environmental Response Trust Party. Nor shall the GVI be held liable to any of the Environmental Response Trust Parties for any liability, action, or inaction of any other party, including the Settlor or any other Environmental Response Trust Party.

4.11.2 By entering into this Agreement and discharging their obligations hereunder, the Environmental Response Trust Parties and Hovensa are deemed to have discharged any and all obligations under RCRA, CERCLA and Environmental Laws to the United States and the GVI, and have protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. Section 9613(f)(2) or similar state or federal Law for matters addressed in the Plan and in this Agreement. The Environmental Response Trust Parties and Hovensa shall have the benefits of the covenants not to sue as set forth in Articles X.D through X.G of the Plan.

4.11.3 It is the express intent of the Parties that the Settlor's total financial obligations at the Facility shall not exceed the amount of funding available to the

Environmental Response Trust. The Environmental Response Trustee shall make every effort to implement the Environmental Remediation/Compliance Program within the funds provided and with a goal of ensuring that the funds are used efficiently and effectively to ensure their greatest impact and effect. [Nothing in this Subparagraph limits the United States' and DPNR's reservation of rights against the Purchaser for the Purchaser's obligations under the Transaction Documents.]

4.11.4 None of the United States, the GVI, nor the Settlor shall be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer or director of the Environmental Response Trust or the Environmental Response Trust Parties, or to be an owner of the Facility on account of this Agreement or actions contemplated thereby.

4.11.5 Nothing in this Agreement shall be deemed to limit the authority of the EPA or the DPNR to take response action under Section 104 of CERCLA, 42 U.S.C. § 9604, section 3007 of RCRA, 42 U.S.C. § 3967, or any other applicable law or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the EPA or the DPNR pursuant to that authority. Nothing in this Agreement shall be deemed to limit the information-gathering authority of the EPA or the DPNR under Sections 104 and 122 of CERCLA, 42 U.S.C. §§ 9604 and 9622, or any other applicable federal or state law or regulation, or to excuse the Environmental Response Trust from any disclosure or notification requirements imposed by CERCLA, RCRA, or any other applicable federal or territorial law or regulation.

4.11.6 No provision of this Agreement or the Plan shall require the Environmental Response Trustee to expend or risk its own personal funds or otherwise incur any personal financial liability based on the ownership of the Environmental Response Trust Assets or Environmental Response Trust Proceeds or the performance or non-performance of any of its duties or the exercise of any of its authorities as Environmental Response Trustee hereunder. Notwithstanding the foregoing, the Environmental Response Trustee shall satisfy from its own funds any liability imposed by a final order of the Court, not reversed on appeal, on account of the Environmental Response Trustee's fraud or willful misconduct with relation to the performance or non-performance of any of its duties or the exercise of any of its authorities as Environmental Response Trustee hereunder.

4.12 Exculpation and Indemnification.

The Environmental Response Trust Parties shall be and hereby are exculpated by all Persons and entities, 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 the Environmental Response Trust Assets or the Environmental Response Trust Proceeds and the discharge of the powers and duties conferred upon the Environmental Response Trustee and the Environmental Response Trust by the Plan, this Agreement, or any order of the Court entered pursuant to or in furtherance of the Plan or this Agreement, or applicable Law or otherwise, other than actions or omissions to act to the extent determined by a final order of a Court to be due to their own respective willful misconduct or fraud. No holder of a claim or

other party in interest will have or be permitted to pursue any claim or cause of action against any Environmental Response Trust Party for making payments in accordance with the Plan, this Agreement, or any order of a Court, or for implementing the provisions of the Plan, this Agreement, or any order of a Court. The Environmental Response Trust shall indemnify, defend and hold harmless (without the Environmental Response Trust Parties having to first pay from their own funds) the Environmental Response Trust Parties from and against any and all claims, causes of action, liabilities, obligations, losses, costs, judgments, damages or expenses (including attorneys' fees) (other than on account of actions or omissions to act to the extent determined by a final order of a Court to be due to their own respective willful misconduct or fraud) to the fullest extent permitted by applicable Law, provided that such indemnification shall be limited to funds in the Environmental Response Trust Account. It shall be an irrebuttable presumption that any action taken or omitted to be taken with the approval of the Court shall not constitute willful misconduct or fraud.

The United States and the GVI enter into this agreement in their sovereign capacities, pursuant to their authority to enforce Environmental Laws. Nothing in this Agreement shall be interpreted as a waiver of their sovereign immunity, and the Governmental Units hereby assert their sovereign immunity to the fullest extent permitted by law.

Nothing in this Agreement including, without limitation, Sections 4.9, 4.11, or 4.12, shall preclude the United States or the GVI from enforcing the terms of this Agreement or shall preclude the United States from bringing an action under RCRA against the Environmental Response Trust asserting that the Environmental Response Trust must be substituted for Hovensa as a permittee under the RCRA Permit or the RCRA Post-Closure Permit and must comply with the obligations of such permits, subject to the limitations set forth in Section 4.9(c) of this Agreement (except to the extent that the United States seeks to have any such obligations satisfied with the proceeds of any insurance policy.)

4.13 Termination, Replacement, and Removal of the Environmental Response Trustee.

4.13.1 Termination.

The duties, responsibilities and powers of the Environmental Response Trustee will terminate on the date the Environmental Response Trust is dissolved under applicable Law in accordance with Article VIII of the Plan, or by an order of a Court; provided that this Section and Sections 4.9, 4.11 and 4.12 above shall survive such termination and dissolution. The Environmental Response Trustee may resign from its trusteeship generally and without cause giving not less than 120 days prior written notice thereof to the Bankruptcy Court, the EPA, and the GVI, provided that a successor trustee has been appointed as of the effective date of any such resignation.

4.13.2 Replacement.

The Environmental Response Trustee may be replaced upon completion of any one (1) year term by the joint direction of EPA and the GVI; however, this Section and Sections 4.9, 4.11 and 4.12 above shall survive such replacement.

4.13.3 Removal.

The Environmental Response Trustee may be removed or the Environmental Response Trust Assets and/or Environmental Response Trust Proceeds may be transferred [to the EPA or the GVI] by:

- (1) The entry of an order by a Court finding that the Environmental Response Trustee committed fraud or willful misconduct after the Environmental Response Trust Effective Date in relation to the Environmental Response Trustee's duties under this Agreement; or
- (2) The entry of an order by a Court finding that (i) the Environmental Response Trustee in any material respect, as a result of negligence, exacerbates hazardous conditions at the Facility, (ii) is seriously or repeatedly deficient or late in performance of the Environmental Remediation/Compliance Program or this Agreement, including providing budgets, workplans, or reports to the Beneficiaries as provided herein, or otherwise violates the provisions of the Plan, or (iii) has violated the provisions of this Agreement or other related implementation agreements.
- (3) The provisions of this Section and Section 4.9, 4.11 and 4.12 above shall survive the removal of the Environmental Response Trustee or transfer of funds.

4.14 Appointment of Successor Environmental Response Trustees.

Any successor Environmental Response Trustee shall be proposed by the EPA and the GVI and appointed by the Bankruptcy Court. Any successor Environmental Response Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall file such acceptance with the Environmental Response Trust records. Thereupon, such successor Environmental Response Trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts and duties of its predecessor in the Environmental Response Trust with like effect as if originally named herein; provided, however, that a removed or resigning Environmental Response Trustee shall, nevertheless, when requested in writing by the successor Environmental Response Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor Environmental Response Trustee under the Environmental Response Trust all the estates, properties, rights, powers, and trusts of such predecessor Environmental Response Trustee.

4.15 No Bond.

Notwithstanding any state or territorial Law to the contrary, except as otherwise ordered by the Bankruptcy Court, the Environmental Response Trustee, including any successor Environmental Response Trustee, shall be exempt from giving any bond or other security in any jurisdiction.

ARTICLE V
BENEFICIARIES

5.1 Beneficiaries.

Beneficial interests in the Environmental Response Trust shall be held by each of the Beneficiaries.

5.2 Identification of Beneficiaries.

5.2.1 In order to determine the actual names and addresses of the authorized representatives of a Beneficiary, the Environmental Response Trust and the Environmental Response Trustee shall be entitled to rely conclusively on the name and address of the authorized representative for such Beneficiary listed below in Section 5.2.2, who may from time to time provide additional or replacement names and addresses of authorized representatives, or listed in any written notice provided to the Environmental Response Trustee in the future by an authorized representative of such Beneficiary.

5.2.2 The Environmental Response Trustee shall send copies of all reports, budgets, annual balance statements, and other documents that the Environmental Response Trustee is required to submit to a Beneficiary under Article VIII of the Plan or this Agreement, and related implementation documents including any unilateral administrative orders, consent decrees, or administrative orders on consent to the following person(s), as applicable. Any such submission shall include a reference to the Bankruptcy Case, as well as the name of any other identifying information of any permits or agreements related to the submission:

As to the United States of America (on behalf of the EPA) as Beneficiary:

Authorized representative and party to receive all notices under 5.2.2:

[]

As to the GVI as Beneficiary:

Authorized representative and party to receive all notices under 5.2.2:

[]

5.3 Transfer of Beneficial Interests.

Beneficial interests in the Environmental Response Trust shall not be transferrable.

5.4 [Beneficiaries' Agreement to Make Distributions.

The DPNR and the EPA may agree in writing at any time after one year from the Environmental Response Trust Effective Date that based on new information about the estimated

cost of cleanup or administration or the assumption of liability by a financially qualified buyer or other party for remediating a site, that the funding in the RCRA Trusts is more than is conservatively projected to be needed. Upon such an agreement, any such excess funding remaining in the RCRA Trusts shall be transferred as set forth in section 5.5.]

5.5 Distribution of Remaining Environmental Response Trust Funds.

After all Remediation/Compliance Costs have been paid or otherwise satisfied in full, and any liabilities have been resolved and settled in accordance with the terms of this Agreement and Article VIII of the Plan, any funds remaining with the Environmental Response Trust shall be transferred [in accordance with an Order of the Bankruptcy Court].

ARTICLE VI
REPORTING AND TAXES

6.1 Reports.

As soon as practicable after the end of each year, and as soon as practicable upon termination of the Environmental Response Trust, the Environmental Response Trustee shall submit to the Beneficiaries a written report, including: (a) financial statements of the Environmental Response Trust at the end of such calendar year and the receipts and disbursements of the Environmental Response Trust for such period; and (b) a description of any action to be taken by the Environmental Response Trust, and prior to such action being taken, in the performance of its duties which, as determined by outside counsel, accountants or other professional advisors, materially and adversely affects the Environmental Response Trust and of which notice has not previously been given to the Beneficiaries. The Environmental Response Trust shall promptly submit additional reports to the Beneficiaries whenever, as determined by outside counsel, accountants or other professional advisors, an adverse material event or change occurs which affects either the Environmental Response Trust or the rights of the Persons receiving distributions (including, without limitation, the Beneficiaries) hereunder. The Environmental Response Trust shall also provide the reports or information required by Section 3.2 of this Agreement.

The Environmental Response Trustee shall respond to reasonable requests for information made by any of the former owners of Hovensa with respect to financial statements, receipts and disbursements, and actions taken by the Environmental Response Trust in the performance of its activities.

6.2 Other.

The Environmental Response Trustee shall also file (or cause to be filed) any other statements, returns or disclosures relating to the Environmental Response Trust, that are required by any applicable Governmental Unit.

6.3 Reports in Support of Insurance Claims.

The Environmental Response Trust shall also file (or cause to be filed) reports and cost analyses in support of claims against insurance carriers at the request of the EPA and the GVI

and shall provide the EPA and the GVI in a timely manner a copy of any such reports and cost analyses.

6.4 Taxes.

The Environmental Response Trustee shall be responsible for filing all federal, state, local and non-U.S. tax returns and paying taxes for the Environmental Response Trust. The Environmental Response Trust shall comply with all withholding and reporting requirements imposed by any federal, state, local, or non-U.S. taxing authority, and all distributions made by the Environmental Response Trust shall be subject to any such withholding and reporting requirements. Amounts properly withheld from distributions to recipient beneficiaries and paid over to any Governmental Unit will be treated as amounts distributed to the recipient beneficiary.

The Environmental Response Trust shall be treated as a “non-grantor trust” for federal income tax purposes with the Beneficiaries treated as beneficiaries of the trust. Accordingly, for federal income tax purposes, it is intended that the Environmental Response Trust be treated as a taxable entity, on whose behalf the Environmental Response Trustee will file tax returns and pay taxes. The Parties agree that, unless otherwise required by appropriate tax authorities, the Environmental Response Trust shall file or cause to be filed tax returns, reports and other forms as required by applicable Law and consistent with the characterization of the Environmental Response Trust as provided in the preceding sentence. The Environmental Response Trustee shall pay any taxes shown as due on any return out of the Environmental Response Trust Assets (or the income or proceeds thereof).

The Environmental Response Trust may request an expedited determination of taxes of the Environmental Response Trust under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Environmental Response Trust for all taxable periods through the dissolution of the Environmental Response Trust.

ARTICLE VII MISCELLANEOUS PROVISIONS

7.1 Amendments and Waivers.

Any provision of this Agreement may be amended or waived by mutual written consent of the Environmental Response Trustee, the EPA, and the GVI; provided, however, that no change shall be made to this Agreement that would alter the provisions of Section 6.4 hereof or adversely affect the federal income tax status of the Environmental Response Trust as a trust (in accordance with Section 6.4 hereof), or, unless agreed to in writing by the affected Environmental Response Trustee, the rights of the Environmental Response Trustee. Technical amendments to this Agreement may be made as necessary, to clarify this Agreement or enable the Environmental Response Trustee to effectuate the terms of this Agreement, in a manner consistent with Article VIII of the Plan with the mutual consent of the Environmental Response Trustee, the EPA, and the GVI.

7.2 Cooperation.

The Environmental Response Trust and Environmental Response Trustee shall take such actions and execute such documents as are reasonably requested by the Settlor with respect to effectuating the Plan and the transactions contemplated thereby, provided that such actions are not inconsistent with this Agreement or the Plan. To the extent that the Settlor requests the Environmental Response Trust and/or the Environmental Response Trustee to take such an action, the Environmental Response Trust and Environmental Response Trustee shall do so at the sole expense of the Settlor but only if such action is not inconsistent with this Agreement or the Plan.

7.3 Situs of the Environmental Response Trust.

The situs of the Environmental Response Trust established herein is New York, and, except to the extent the Bankruptcy Code or other federal law is applicable, the rights, duties, and obligations arising under this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflict of law thereof.

7.4 Severability.

If any provision of this Agreement or application thereof to any Person or circumstance shall be finally determined by the Court to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by Law.

7.5 Sufficient Notice.

Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the Person for whom such notice is intended, to the name and address set forth in the case of a Beneficiary in Section 5.2 of this Agreement or such other address provided in writing to the Environmental Response Trust by an authorized representative of the respective Beneficiary.

7.6 Headings.

The section headings contained in this Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or any term or provision hereof.

7.7 Actions Taken on Other Than Business Day.

If any payment or act under the Plan or this Agreement is required to be made or performed on a date that is not a business day, then the making of such payment or the performance of such act may be completed on the next succeeding business day, but shall be

deemed to have been completed as of the required date. For the purposes of this agreement, a business day shall be any of the days Monday through Friday excluding national holidays.

7.8 Consistency of Agreements and Construction.

To the extent reasonably possible, the provisions of this Agreement shall be interpreted in a manner consistent with the Plan. Where the provisions of this Agreement are irreconcilable with the provisions of the Plan, the provisions of the Plan shall prevail, with the exception of Section 2.6.1, and Article IV in its entirety, in which case this Agreement controls.

7.9 Compliance with Laws.

Any and all distributions of Environmental Response Trust Assets and/or Environmental Response Trust Proceeds shall be in compliance with applicable Laws, including, but not limited to, applicable federal, state, and territorial securities Laws.

7.10 Preservation of Privilege.

In connection with the Environmental Response Trust Assets, any attorney-client privilege, work-product privilege, joint interest privilege or other privilege or immunity attaching to any documents or communications (in any form, including, without limitation, written, electronic or oral) of the Settlor shall be transferred and shall vest in. The Environmental Response Trust's receipt of such privileges associated with the Environmental Response Trust Assets shall not operate as a waiver of other privileges possessed or retained by the Settlor.

7.11 No Recourse to Beneficiaries.

In no event shall the Beneficiaries have any responsibility for paying any expenses, fees, and other obligations of the Environmental Response Trust, even after any funding therein is depleted, and in no event shall the Environmental Response Trust or the Environmental Response Trustee, or any of their agents, representatives, or professionals, have recourse to the Beneficiaries therefor. Neither of the Beneficiaries shall be deemed an owner, operator, trustee, partner, agent, shareholder, officer, or director of the Environmental Response Trust or the Environmental Response Trust Parties, or to be an owner or operator of the Facility, solely on account of this Environmental Response Trust Agreement or the actions contemplated thereby.

7.12 Uniform Custodial Trust Act.

This Agreement shall not be subject to any provision of the Uniform Custodial Trust Act as adopted by any state, now or in the future.

7.13 [Reservation Regarding Liability of GVI]

[Language to come concerning effect of exculpation and related provisions on liability of GVI, if any, under Environmental Law.]

THE UNDERSIGNED PARTIES ENTER INTO THIS AGREEMENT

FOR THE UNITED STATES OF AMERICA

Date: _____

Date: _____

By: _____

Date: _____

Date: _____

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Date: _____ By: _____

Date: _____ By: _____

FOR THE UNITED STATES VIRGIN ISLANDS

Date: _____ By: _____

Date: _____ By: _____

FOR HOVENSA L.L.C.

Date: _____

By: _____

FOR THE ENVIRONMENTAL RESPONSE ENVIRONMENTAL RESPONSE TRUST

The Environmental Response Trustee By and through [Trustee
Entity], not individually but solely in the representative capacity as
Trustee of the Environmental Response Environmental Response
Trust

Date: _____

By: _____

Exhibit C

Schedule of Liquidating Trust Insurance Policies

Schedule of Liquidating Trust Insurance Policies¹

Carrier	Policy Number	Coverage Type	Policy Term
<i>Expired Policies With Asserted or Pending Claims</i>			
Zurich American Insurance Company	GLO 3503997-04	General	2/1/05 – 2/1/06
American International Insurance Company of Puerto Rico	05-31440	General	9/13/99 – 9/13/02
National Union Fire Insurance Company	GL402-81-91	General	7/1/09 – 7/1/10
Assuranceforeningen Gard	437.922	Protection & Indemnity	2/20/12 – 2/20/13
LSI Corp.	EGL-BO-200673-024	General	7/1/05 – 7/1/06
Liberty Mutual	RG1-621-004745-013	General	11/1/03 – 11/1/04
Liberty Mutual	RG1-621-004745-014	General	11/1/04 – 11/1/05
Liberty Mutual	RG1-621-004745-015	General	11/1/05 – 11/1/06
Zurich American Insurance Company	OLP-3517905-00	General/Employer Liability	4/1/00 – 4/1/02
LSI Corp.	EGL-NY-200335-013	General	10/13/04 – 10/13/05
LSI Corp.	EGL-NY-200335-033	General	10/13/05 – 10/13/06
ACE American Insurance Company	CXCD36925127	Auto Liability	3/1/07 – 3/1/08
Lloyd's	595/XO03329011	Excess General	9/15/11 – 9/15/14
National Union Fire Insurance Company	GL-4028191	General	7/1/10 – 7/1/11
AISL	CPL 1534454	Contractor's Pollution	11/1/05 – 11/1/06
Lexington Insurance	1052568	Employment Practices	9/16/01 – 9/16/02
National Union Fire Insurance Company	468-93-56	Employment Practices	7/8/00 – 7/8/03
National Union Fire Insurance Company	402-90-37	Employment Practices	7/8/04 – 7/8/05
National Union Fire Insurance Company	492-52-85	Employment Practices	7/8/05 – 7/8/06
Illinois National	672-67-22	Employment Practices	7/8/06 – 7/8/07
Illinois National	659-67-80	Employment Practices	7/8/07 – 7/8/08
National Union Fire Insurance Company	00-663-10-68	Management Liability/Professional Liability	7/8/08 – 7/8/09

¹ Although the Debtor has made a good faith effort to identify all insurance policies, it may discover additional insurance policies prior to the occurrence of the Effective Date. The listing of an insurance policy shall not limit or impair the Debtor's ability to add an insurance policy at any time prior to the Effective Date and the Debtor reserves all of its rights to supplement this list at any time prior to the Effective Date.

National Union Fire Insurance Company	02-571-47-81	Management Liability/Professional Liability	7/8/10 – 7/8/11
National Union Fire Insurance Company	02-571-29-03	Management Liability/Professional Liability	7/8/11 – 7/8/12
National Union Fire Insurance Company	02-832-94-26	Management Liability/Professional Liability	7/8/12 – 7/8/13
Active Contractor Policies²			
ACE American Insurance	HDO G27402884	General Liability	1/1/16 – 1/1/17
ACE American Insurance	ISA H0886651A	Auto Liability	1/1/16 – 1/1/17
ACE American Insurance	WLR C48598158 (AOS); SCF C48598195 (WD)	Workers Compensation and Employers' Liability	1/1/16 – 1/1/17
Illinois Union Insurance Co.	GOO G27269096 002; CPL SIR = \$500,000	Contractors' Pollution and Prof. Liability	1/1/16 – 1/1/17
ACE American Insurance	PHFD38549819 001	General Liability	5/1/15 – 5/1/16
ACE American Insurance	G2783243A	Umbrella	5/1/15 – 5/1/16
Liberty Surplus Insurance	100016139001	General Liability	6/12/15 – 6/12/16
Westchester Surplus Lines Insurance Company	G22031260009	General Liability	12/17/15 – 12/17/16
Illinois Union Insurance Co.	G22031272009	Umbrella	12/17/15 – 12/17/16
Travelers Indemnity Co.	YSUB2380R98215	Workers Compensation and Employers' Liability	7/1/15 – 7/1/16
Zurich American Insurance Co.	GLO01122368-00	General Liability	3/16/15 – 3/16/16
Zurich American Insurance Co.	BAP0112367-00	Auto Liability	3/16/15 – 3/16/16
American Guarantee & Liability	AUC0112432-00	Umbrella	3/16/15 – 3/16/16
Zurich American Insurance Co.	WC0112369-00	Workers Compensation and Employers' Liability	3/16/15 – 3/16/16
Lloyds	B1230GP01983U14	General Liability	1/1/15 – 4/1/16
Dorchester Insurance Company	GAL64337	General Liability	10/8/15 – 7/1/16
Lloyds	BAPLOX11954	Auto Liability	10/8/15 – 7/1/16
Hull & Co.	DE1500793	General Liability	5/6/15 – 5/6/16

² The Debtor is a named insured on certain policies held by Debtor's independent contractors.

National Union Fire Insurance Company of Pittsburgh	GL3333286	General Liability	10/1/15 – 10/1/16
National Union Fire Insurance Company of Pittsburgh	CA 746-98-77	Auto Liability	10/1/15 – 10/1/16
National Union Fire Insurance Company of Pittsburgh	CA 746-98-79	Auto Liability	10/1/15 – 10/1/16
New Hampshire Insurance	CA 746-98-78	Auto Liability	10/1/15 – 10/1/16
New Hampshire Insurance	WC 024781119	Workers Compensation and Employers' Liability	10/1/15 – 10/1/16
National Union Fire Insurance Company	WC 024781120	Workers Compensation and Employers' Liability	10/1/15 – 10/1/16
New Hampshire Insurance	WC 067940050; WC 067940056; WC 024781122; WC 067940049; WC 067940051	Workers Compensation and Employers' Liability	10/1/15 – 10/1/16
Illinois National Insurance Co.	WC 024781121 FL	Workers Compensation and Employers' Liability	10/1/15 – 10/1/16
AON Risk Services	OPII022328915	Protection & Indemnity	2/20/15 – 2/20/16
Allianz Global Risks US Insurance Co.	CGL2006324	General Liability	1/1/16 – 1/1/17
Allianz Global Risks US Insurance Co.	ULA20006325	Umbrella	1/1/16 – 1/1/17
Hartford Fire Insurance Co.	10 AB S41202 (AOS) 10 AB S41203 (HI)	Auto Liability	1/1/16 – 1/1/17
Hartford Fire Insurance Co.	10 AB S41203 (HI)	Auto Liability	1/1/16 – 1/1/17
Trumbull Insurance Co.	10WNS41200 (AOS)	Workers Compensation and Employers' Liability	1/1/16 – 1/1/17
Hartford Accident & Indemnity Company	10WNS41200 AZ CA GA KY MI MN MT NE N	Workers Compensation and Employers' Liability	1/1/16 – 1/1/17
Hartford Fire Insurance Co.	10WNS41200 FL ND OH WA	Workers Compensation	1/1/16 – 1/1/17
Hartford Insurance Co. of The Southeast	10WNS41200 PA	Workers Compensation	1/1/16 – 1/1/17

Property & Casualty Ins Co. of Hartford	10WNS41200 DE LA VT	Workers Compensation	1/1/16 – 1/1/17
Hartford Ins Co. of the Midwest	10WNS41200 AK ID NJ NY	Workers Compensation	1/1/16 – 1/1/17
Sentinel Insurance Company, Ltd.	10WNS41200IA	Workers Compensation	1/1/16 – 1/1/17
Hartford Underwriters Insurance Company	10WNS41200HI MA	Workers Compensation	1/1/16 – 1/1/17
Hartford Casualty Insurance Co.	10WNS41200NC	Workers Compensation	1/1/16 – 1/1/17
Twin City Fire Insurance Company	10WBRSS41201WI	Workers Compensation	1/1/16 – 1/1/17

In addition to the foregoing policies, the Debtor transfers to the Liquidating Trust any other policy that provides coverage for Claims that have been asserted in Classes 4, 5, and 6.

The Debtor or the Reorganized Debtor, as applicable, may transfer to the Liquidating Trust any and all insurance policies and any rights thereunder from time to time.

Exhibit D

Schedule of Environmental Response Trust Insurance Policies

Schedule of Environmental Response Trust Insurance Policies¹

Carrier	Policy Number	Coverage Type	Policy Term
TBD	TBD	The insurance policies with insurance carriers with AM Best Ratings of A- or greater and Financial Size Category XV or greater providing coverage, at a minimum, for cleanup and remediation of, and bodily injury or property damage arising from, presently unknown conditions at or emanating or migrating from the Facility, with coverage of no less than \$50,000,000 per occurrence and in the aggregate under commercially reasonable terms (to be raised to \$75,000,000 per occurrence and in the aggregate if such limits are reasonably commercially available), and all on such other terms as are laid out in Exhibit 1 or Exhibit 1-A (as amended) to the Termination and Release Agreement (if more than one policy is used to obtain the required limits, all excess policies shall follow form and provide coverage on the same terms and conditions as the underlying policy).	TBD
<i>Active Contractor Policies²</i>			
Lloyds	B1230PC01638A15	General Liability	6/1/15 – 6/1/16

¹ Although the Debtor has made a good faith effort to identify all insurance policies, it may discover additional insurance policies prior to the occurrence of the Effective Date. The listing of an insurance policy shall not limit or impair the Debtor’s ability to add an insurance policy at any time prior to the Effective Date and the Debtor reserves all of its rights to supplement this list at any time prior to the Effective Date.

² The Debtor is a named insured on certain policies held by Debtor’s independent contractors.

Lloyds	BAPCPS234	Auto Liability	1/13/16 – 1/13/17
Zurich American Insurance Co.	GLO3671386	General Liability	7/1/15 – 7/1/16
Zurich American Insurance Co.	BAP3671392	Auto Liability	7/1/15 – 7/1/16
American Guarantee & Liability	SEO5979092	Umbrella	7/1/15 – 7/1/16
Zurich American Insurance Co.	WC3671385	Workers Compensation and Employers' Liability	7/1/15 – 7/1/16
Nautilus Insurance Company	CCP2005634-10	Pollution	7/1/15 – 7/1/16

In addition to the foregoing policies, the Debtor transfers to the Environmental Response Trust any other policy that provides coverage for Environmental Claims.

The Debtor or the Reorganized Debtor, as applicable, may transfer to the Environmental Response Trust any and all insurance policies and any rights thereunder from time to time.

Exhibit E

Termination and Release Agreement

TERMINATION AND RELEASE AGREEMENT

This TERMINATION AND RELEASE AGREEMENT, dated as of January 4, 2016, (this “**Agreement**”), by and among HOVENSA, L.L.C., a limited liability company organized under the Laws of the U.S. Virgin Islands (“**Hovensa**”), the Government of the U.S. Virgin Islands (the “**USVI Government**”), and the Virgin Islands Bureau of Internal Revenue.

WHEREAS, Hess Oil Virgin Islands Corp., a corporation organized under the Laws of the U.S. Virgin Islands (“**HOVIC**”) and PDVSA V.I., Inc., a corporation organized under the Laws of the U.S. Virgin Islands (“**PDVSA VI**”) each own fifty percent (50%) of the issued and outstanding limited liability company interests in Hovensa;

WHEREAS, the USVI Government and Hovensa (as assignee of HOVIC pursuant to the 1998 Letter Agreement (as defined below)) are parties to that certain Contract, dated as of September 22, 1976 (as amended, supplemented or modified from time to time, the “**1976 Contract**”);

WHEREAS, among the documents exchanged between the USVI Government and HOVIC in connection with the 1976 Contract was that certain Lease, dated as of October 16, 1976 (as amended, supplemented or modified from time to time, the “**Submerged Land Lease**”), by and between the USVI Government and Hovensa (as assignee of HOVIC pursuant to the 1998 Letter Agreement), pursuant to which the USVI Government leases certain reclaimed submerged lands specified therein to Hovensa;

WHEREAS, HOVIC and the USVI Government are parties to that certain letter agreement, dated as of October 14, 1998 (as amended, supplemented or modified from time to time, the “**1998 Letter Agreement**”), pursuant to which the USVI Government consented to (a) the assignment by HOVIC to Hovensa of the Submerged Land Lease, provided that HOVIC agreed to remain the primary obligor thereunder and (b) the assignment and delegation by HOVIC to Hovensa of the rights and obligations of HOVIC under the 1976 Contract;

WHEREAS, the USVI Government and HOVIC have entered into that certain Concession Agreement, dated and approved by the Legislature of the Virgin Islands September 1, 1965, and amended, supplemented and clarified at various times by mutual agreement of the parties thereto, including Hovensa and PDVSA VI (all of the foregoing, collectively, the “**Concession Agreement**”);

WHEREAS, Purchaser and Hovensa have entered into that certain Amended and Restated Asset Purchase Agreement, dated as of January 4, 2016 (as it may be amended, supplemented or modified from time to time, the “**Asset Purchase Agreement**”), pursuant to which Purchaser has agreed to purchase and assume, and Hovensa has agreed to sell and transfer to Purchaser pursuant to sections 105, 363 and 365 of the Bankruptcy Code, certain assets and certain liabilities of Hovensa, subject to the terms and conditions set forth therein;

WHEREAS, pursuant to Section 8.3(d) and Section 8.3(e) of the Asset Purchase Agreement, the delivery of this Agreement is a condition precedent to the Closing of the Asset

Purchase Agreement (as defined in the Asset Purchase Agreement, the “**Closing**”) and an inducement to Hovensa entering into the Asset Purchase Agreement;

WHEREAS, the commitments laid out in Exhibit 1 to this Agreement are a material inducement to the USVI Government in entering into this Agreement;

WHEREAS, effective upon the Closing, the USVI Government desires to fully release Hovensa from all rights, liabilities and obligations, among others, under the 1976 Contract, the Submerged Land Lease and the 1998 Letter Agreement, subject to the terms and provisions of this Agreement;

WHEREAS, effective upon the Closing, each of the parties hereto desires to terminate the Concession Agreement and fully release each other and their respective managers, directors, officers and Representatives from all rights, liabilities and obligations under the Concession Agreement, subject to the terms and provisions of this Agreement;

WHEREAS, Hovensa has filed a plan of liquidation that establishes an Environmental Response Trust. The Environmental Response Trust shall perform the Environmental Remediation Program (as defined herein). The USVI Government shall reasonably cooperate in the confirmation and implementation of the plan of liquidation filed by Hovensa;

WHEREAS, the Environmental Response Trust, whose trustee will be subject to the approval of the USVI Government and the United States Environmental Protection Agency (“**EPA**”), will be established for the primary purposes of paying for any post-Effective Date of the Plan Remediation Costs and associated costs and fees incurred by the Environmental Response Trust in accordance with the Plan, Confirmation Order, and the Environmental Response Trust Agreement, overseeing the Remedial Actions pursuant to the Plan and owning certain real property transferred from Hovensa as provided in the Environmental Response Trust Agreement, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the purposes of the Environmental Response Trust;

WHEREAS, The Environmental Response Trust Agreement shall provide that, upon the written request of the USVI Government or the EPA, the Environmental Response Trustee shall reasonably cooperate with the Environmental Response Trust Beneficiaries (a) to facilitate the re-use of any portions of the Remaining Assets to the extent permitted by Environmental Law and (b) to provide all documents or information that are reasonably requested by the USVI Government or the EPA (except for documents and information that are subject to a legal privilege);

WHEREAS, the Environmental Response Trust will obtain and maintain in full force and effect the Environmental Response Trust Insurance Policies under commercially reasonable terms with insurance carriers with AM Best Ratings of A- or greater and Financial Size Category XV or greater providing coverage, at a minimum, for cleanup and remediation of, and bodily injury or property damage arising from, presently unknown conditions at or emanating or migrating from the Facility (as that term is defined in the RCRA Permit, and

including the Retained Refinery Assets, the Leased Submerged Lands, and real property transferred from Hovensa in connection with the Asset Purchase Agreement), with coverage of no less than \$50,000,000 per occurrence and in the aggregate (to be raised to \$75,000,000 if such limits are reasonably commercially available), and all on such other terms as are laid out in Exhibit 1 to this Agreement or as Exhibit 1-A is amended. The Environmental Response Trust will take commercially reasonable efforts to obtain such policies by January 29, 2016;

WHEREAS, the Environmental Response Trust shall retain Industrial Economics Consultants in Cambridge, Massachusetts to study the Facility's impacts on its marine environment at a cost not to exceed \$320,000. This study will be carried out according to specifications approved by the USVI Government and subject to its exclusive oversight after consultation with the Trust to satisfy any of the Trustee's fiduciary responsibilities, all as provided in the Environmental Trust Agreement;

WHEREAS, Hovensa has agreed that the Plan shall provide that the Environmental Response Trust Cash Payment (as defined in the Environmental Response Trust Agreement) shall include a payment provided by Hovensa which shall be no less than \$5 million and shall be transferred into the Environmental Response Trust upon the date the Environmental Response Trust becomes effective;

WHEREAS, the Environmental Trust Agreement will provide that the Environmental Response Trustee will (a) assume Hovensa's obligations to disburse funds to the USVI Government for approved Supplemental Environmental Projects ("**SEP**") pursuant to the Consent Decree entered on June 7, 2011 in the United States District Court of the Virgin Islands in the matter of the United States of America and the United States Virgin Islands v. Hovensa L.L.C (Civ. No.: 1:11-cv-00006); and (b) amend the SEP Escrow Account Agreement dated October 13, 2011 by and among Hovensa, the USVI Government, and JPMorgan Chase Bank, National Association to have a five-year term, such term to be automatically renewed so long as money remains in the account; and

NOW, THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and intending to be legally bound hereby, the parties hereto agree as follows:

1. **Definitions**: As used herein,
 - i. "**Above-Grade Refinery Assets**" shall mean any and all refining process units, buildings, structures, fixtures or other improvements owned by Hovensa that are present on the Option Refinery Property or the Leased Submerged Lands that are exclusively at or above grade, including the power plant located on the Option Refinery Property, and all equipment, personal property and fixtures, including any and all ancillary and non-structural personal property, required to operate such assets (including below-grade pumps, storage tanks, piping, electrical service and distribution system, control systems and any other associated utility infrastructure); provided, that, for the avoidance of doubt, the Above-Grade Refinery Assets shall not include any Retained Refinery Assets or

other Excluded Assets. Notwithstanding the foregoing, the Above-Grade Refinery Assets shall include the above-grade portion of the ground flare present on that certain parcel of real property identified in Exhibit H to the Asset Purchase Agreement as an “Excluded” parcel and located within the submerged land border.

- ii. “**Bankruptcy Code**” shall mean Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq.
- iii. “**Bankruptcy Court**” shall mean the United States District Court of the U.S. Virgin Islands, Bankruptcy Court Division – St. Croix, Virgin Islands.
- iv. “**Claim**” shall have the meaning assigned to such term under section 101(5) of the Bankruptcy Code.
- v. “**Chapter 11 Case**” means the chapter 11 case commenced by Hovensa on September 15, 2015 and styled In re HOVENSA L.L.C., Case No. 15-bk-10003-MFW, which is currently pending before the Bankruptcy Court.
- vi. “**Confirmation Order**” shall mean the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.
- vii. “**Consent Decree**” shall mean the Consent Decree entered on June 7, 2011 in the United States District Court of the Virgin Islands in the matter of United States of America, and United States Virgin Islands v. Hovensa L.L.C. (Civ. No.: 1:11-cv-00006).
- viii. “**DPNR**” shall mean the Virgin Islands Department of Planning and Natural Resources.
- ix. “**Environmental Law**” shall mean any Law, Permit, Order or other requirement of Law or voluntary cleanup or “brownfields” program that relates to (a) the protection of the environment (including natural resource restoration and natural resource damages) or of human health or safety (to the extent human health or safety relates to exposure to Hazardous Materials), or (b) the presence, Release, threatened Release, generation, recycling, disposal or treatment of Hazardous Material, or the arrangement for any such activities.
- x. “**Environmental Remediation Program**” shall mean the program established in accordance with the Environmental Response Trust Agreement whereby the Environmental Response Trust shall conduct the environmental aspects of the winding-up of Hovensa’s affairs as required by any non-terminated environmental permits set forth on Exhibit 2 to this Agreement, including the RCRA Permit, Environmental Law and/or as otherwise enumerated as follows: (a) the activities required by the RCRA Permit and associated plans, including the pump and treat program; (b) the

Product Release Prevention Program (PRPP) required by the RCRA Permit, which includes testing and repair of atmospheric storage tankage, oily water conveyance systems and underground piping in chemical or hydrocarbon service; (c) the obligations associated with regulated units required by the RCRA Permit, including with regard to units known as Landfarms I, II and III; (d) the groundwater remediation and monitoring program that had been conducted by Hovensa at Hovensa's discretion prior to the Closing Date, and reported by Hovensa in the Semiannual Corrective Action Status Reports required by the RCRA Permit prior to the Closing Date (which work was conducted due to contaminant occurrences and to ensure hydraulic control along the perimeter of the Retained Refinery Assets and real property transferred from Hovensa in connection with the Asset Purchase Agreement); (e) all obligations set forth in Article VIII of the Plan; and (f) the activities to be performed for \$66,217,000 as described in, or that are the functional equivalent of those described in, Table 1: Review of Wind Down Cost Estimate December 20, 2015 submitted to the USVI Government on December 20, 2015.

- xi. **“Environmental Response Trust”** shall mean the trust to be established in accordance with the Plan.
- xii. **“Environmental Response Trust Agreement”** shall mean the agreement governing, among other things, the retention and duties of the Environmental Response Trustee as described in the Plan.
- xiii. **“Environmental Response Trust Beneficiaries”** shall mean those governmental entities holding nondischargeable environmental claims whose responsibilities include enforcement and oversight of Environmental Law, including the DPNR and EPA.
- xiv. **“Environmental Response Trust Insurance Policies”** shall mean the insurance policies with insurance carriers with AM Best Ratings of A- or greater and Financial Size Category XV or greater providing coverage, at a minimum, for cleanup and remediation of, and bodily injury or property damage arising from, presently unknown conditions at or emanating or migrating from the Facility, with coverage of no less than \$50,000,000 per occurrence and in the aggregate under commercially reasonable terms (to be raised to \$75,000,000 per occurrence and in the aggregate if such limits are reasonably commercially available), and all on such other terms as are laid out in Exhibit 1 to this Agreement or as Exhibit 1-A is amended (if more than one policy is used to obtain the required limits, all excess policies shall follow form and provide coverage on the same terms and conditions as the underlying policy).
- xv. **“Environmental Response Trustee”** shall mean the Person designated as such by Hovensa and approved by the EPA and the DPNR.

- xvi. **“Government Parcel”** shall mean each parcel identified in Exhibit H to the Asset Purchase Agreement as a “Government” parcel.
- xvii. **“Hazardous Material”** shall mean any waste, including any solid or hazardous waste, or any other substance that is listed, defined, designated, classified as, or otherwise determined to be, hazardous, extremely hazardous, toxic, radioactive, or a pollutant or a contaminant under or pursuant to any Law, Order or requirement of Law or voluntary cleanup or brownfields program, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor and asbestos or asbestos-containing materials, lead and lead-based paint, and polychlorinated biphenyls and compounds containing them.
- xviii. **“Leased Submerged Lands”** shall mean those portions of real property identified in Exhibit H to the Asset Purchase Agreement as “Terminal” or “Refinery” parcels that are leased by Seller subject to the Submerged Land Lease, the 1976 Contract and the 1998 Letter Agreement.
- xix. **“Liabilities”** shall mean any and all indebtedness, taxes, losses, charges, debts, damages, obligations, payments, costs and expenses, bonds, indemnities, liabilities and obligations of any nature, including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability, regardless of whether such claim, debt, obligation, duty or liability would be required to be disclosed on a balance sheet prepared in accordance with GAAP and regardless of whether such claim, debt, obligation, duty or liability is immediately due and payable.
- xx. **“Liens”** shall mean any liens (as defined in Section 101(37) of the Bankruptcy Code), debts (as defined in Section 101(12) of the Bankruptcy Code), security interests, Claims, easements, mortgages, charges, indentures, deeds of trust, rights of way, encroachments, or any other encumbrances and other restrictions or limitations on ownership or use of real or personal property or irregularities in title thereto.
- xxi. **“Loss”** or **“Losses”** shall mean, without duplication, any and all Liabilities, judgments, awards, losses, costs or damages, including reasonable fees and expenses of attorneys, accountants and other professional advisors.
- xxii. **“Option Agreement”** shall mean an option agreement by and among Purchaser and Seller, pursuant to which Purchaser will have the right to acquire some or all of the Option Refinery Property for a purchase price of \$1 per acre.

- xxiii. “**Option Refinery Property**” shall mean the real property owned by Hovensa and described in Section 1.1(e) of the Seller Disclosure Letter attached to the Asset Purchase Agreement (and including, for the avoidance of doubt, the Option Refinery Parcels), together with all easements, appurtenances, rights and other hereditaments appurtenant to such real property.
- xxiv. “**Order**” shall mean any judgment, order, injunction, decree, writ, permit or license issued or entered by or with any governmental entity or any arbitrator, whether preliminary, interlocutory or final, including any order entered by the Bankruptcy Court in the in the Chapter 11 Case.
- xxii. “**Person**” shall mean and include an individual, a partnership, a limited partnership, a limited liability partnership, a joint venture, a corporation, a limited liability company, an association, a trust, an unincorporated organization, a group and a governmental entity.
- xxiii. “**Permit**” shall mean all permits, approvals, licenses, authorizations, certificates, rights, exemptions and Orders from governmental entities
- xxiv. “**Plan**” shall mean Hovensa’s *Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*, as amended, supplemented, or otherwise modified from time to time.
- xxv. “**Purchaser**” shall mean Limetree Bay Holdings, LLC, a limited liability company organized under the Laws of the State of Delaware.
- xxvi. “**RCRA Permit**” shall mean the Resource Conservation and Recovery Act Part B Permit No. VID980536080, any amendments thereto, and any document that replaces such Permit.
- xxvii. “**Release**” shall mean the disposing, discharging, injecting, spilling, leaking, pumping, pouring, leaching, dumping, emitting, escaping or emptying into or upon any air, soil, sediment, subsurface strata, surface water or groundwater.
- xxviii. “**Remaining Assets**” shall mean the Excluded Assets under the Asset Purchase Agreement, other than the Government Parcels.
- xxix. “**Remedial Action(s)**” shall mean those activities associated with or relating to investigating, sampling, monitoring, preventing, minimizing, abating, cleaning up, removing, remediating, or mitigating with respect to Hazardous Materials in the environment.
- xxii. “**Remediation Costs**” shall mean the reasonable and documented out-of-pocket costs and expenses incurred in connection with implementing the Environmental Remediation Program, including the costs of enforcement activities related thereto by the USVI Government.

- xxiii. “**Representatives**” of any Person shall mean such Person’s directors, managers, officers, employees, agents, attorneys, consultants, advisors, financing sources or other Persons acting on behalf of such Person.
- xxiv. “**Retained Refinery Assets**” shall mean the Option Refinery Property, to the extent such Option Refinery Property has not been conveyed pursuant to the Option Agreement (and excluding, for the avoidance of doubt, the Above-Grade Refinery Assets).

2. Effective upon the Closing:

- a. the Concession Agreement, as it relates to the rights and obligations of Hovensa, shall be terminated and canceled in its entirety and shall be null and void and of no further force and effect automatically and without further action by any of the parties to the Concession Agreement and neither Hovensa nor the USVI Government shall have any further rights, obligations or liabilities thereunder or relating thereto to or against each other;
- b. each of (i) the 1976 Contract, (ii) the Submerged Land Lease, (iii) the 1998 Letter Agreement and (iv) Permits Nos. 3, 23 and 52 issued by the United States Department of the Interior, as amended, and Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands, as amended, as to Hovensa shall be terminated and canceled, or as to the Submerged Lands Lease and Submerged Lands Permits Nos. 3, 23 and 52 issued by the United States Department of the Interior, as amended, assigned, in its entirety and shall be null and void and of no further force and effect as to Hovensa automatically and without further action by any of the parties to thereto and Hovensa shall have no further rights, obligations or liabilities thereunder or relating thereto;
- c. except for the obligations in this Agreement, in the Plan, and in any other agreement in effect between Hovensa and the USVI Government in effect on the date hereof, the USVI Government on behalf of itself and its respective managers, directors, officers, Representatives, and any other U.S. Virgin Islands governmental entity party to any of the Concession Agreement, the 1976 Contract, the Submerged Land Lease, the 1998 Letter Agreement, Permits Nos. 3, 23 and 52 issued by the United States Department of the Interior, as amended, or Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands, and each of their respective successors and assigns, hereby forever waives, releases and discharges, to the fullest extent permitted by Law, Hovensa and its past, present or future managers, directors, officers and Representatives (each, a “**Hovensa Releasee**”), from and against any and all actions, causes of action, claims, demands, damages, judgments, Liabilities, debts, dues and suits of every kind, nature and description whatsoever, whether now known or unknown, vested or contingent, suspected or unsuspected, concealed or hidden, (i) now existing or hereafter arising directly or indirectly, under the Concession Agreement, the 1976 Contract, the Submerged

Land Lease, the 1998 Letter Agreement, Permits Nos. 3, 23 and 52 issued by the United States Department of the Interior, as amended, and Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands, as amended, or (ii) otherwise arising out of or with respect to, directly or indirectly, facts, circumstances or events now existing or existing at any time prior to the date hereof, including all stamp, transfer, documentary, sales and use, value added, registration and other such taxes and fees (including any penalties, interest and recording and filing fees) incurred in connection with the transactions contemplated by the Asset Purchase Agreement; provided none of the foregoing shall release any claim of the USVI Government for Liabilities under Environmental Law against Hovensa, which claims against Hovensa shall be settled and compromised under a confirmed chapter 11 plan of liquidation of Hovensa that includes the terms stated in Exhibit 1 hereto; and

- d. except for the obligations in this Agreement and in any other agreement in effect between Hovensa and any USVI Government entity in effect on the date hereof, Hovensa on behalf of itself and its managers, directors, officers and Representatives and each of their respective successors and assigns, hereby forever waives, releases and discharges, to the fullest extent permitted by Law, the USVI Government and its respective past, present or future managers, directors, officers and Representatives (each, a “**USVI Releasee**” and together with the Hovensa Releasees, the “**Releasees**”), from and against any and all actions, causes of action, claims, demands, damages, judgments, Liabilities, debts, dues and suits of every kind, nature and description whatsoever, whether now known or unknown, vested or contingent, suspected or unsuspected, concealed or hidden, (i) now existing or hereafter arising directly or indirectly, under the Concession Agreement, the 1976 Contract, the Submerged Land Lease, the 1998 Letter Agreement, Permits Nos. 3, 23 and 52 issued by the United States Department of the Interior, as amended, and Submerged Lands Permit No. 167 issued by the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands, as amended or (ii) otherwise arising out of or with respect to, directly or indirectly, facts, circumstances or events now existing or existing at any time prior to the date hereof.
3. The parties hereto agree that the recitals set forth herein shall be considered an integral part of this Agreement between the parties.
4. Nothing in this Agreement shall be construed to release the Environmental Response Trust created through the confirmed Chapter 11 plan of liquidation of its obligations to carry out the Environmental Remediation Program pursuant to the Plan.
5. Nothing in this Agreement shall discharge or release any obligations set forth under Article VIII of the Plan, nor release any claims that the USVI Government might have for failure to perform such obligations.

6. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives. Except with respect to Section 2 hereof, which shall inure to the benefit of each Releasee, all of whom are intended as express third-party beneficiaries thereof, no other Person not party to this Agreement shall be entitled to the benefits of this Agreement. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without the prior written consent of the other parties hereto.
7. This Agreement and the Plan contain the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes any and all prior agreements, representations, understandings and arrangements, whether written or oral.
8. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed an original, but all of the counterparts together constitute the same instrument. This Agreement may be executed by facsimile or scanned signature.
9. Except as otherwise provided herein, all notices, requests, claims, demands, waivers and other communications hereunder shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by email transmission (in the case of email transmission, with copies by overnight courier service) to the respective parties hereto as follows (or, in each case, as otherwise notified by any of the parties hereto) and shall be effective and deemed to have been given when received by the addressee if delivered by hand or overnight courier service or certified or registered mail on any Business Day:

If to Hovensa, to:

HOVENSA L.L.C.
1 Estate Hope
Christiansted, St. Croix 00820
Attention: Sloan Schoyer
email: sschoyer@hovensa.com

with a copy (which shall not constitute notice or service of process) to:

White & Case LLP
1155 Avenue of the Americas
New York, New York 10036
Attention: John M. Reiss
Gregory Pryor
Fax: (212) 354-8113
email: jreiss@whitecase.com
gpryor@whitecase.com;

and to:

Morrison & Foerster LLP
250 West 55th Street
New York, New York 10019
Attention: Lorenzo Marinuzzi
Jennifer L. Marines
Fax: (212) 468-7900
email: lmarinuzzi@mof.com
jmarines@mof.com;

If to the USVI Government to:

c/o The Government of the U.S. Virgin Islands
Government House
Charlotte Amalie
St. Thomas, U.S. Virgin Islands
Attention: Office of the Governor

with a copy (which shall not constitute notice or service of process) to:

Office of the Attorney General
U.S. Virgin Islands Department of Justice
34-38 Kronprindsens Gade
GERS Building, 2d Floor
St. Thomas, U.S. Virgin Islands 00802

Notices sent by multiple means, each of which is in compliance with the provisions of this Agreement will be deemed to have been received at the earliest time provided for by this Agreement.

10. This Agreement may not be amended except by a written instrument executed by all parties to this Agreement.
11. THIS AGREEMENT AND THE LEGAL RELATIONS BETWEEN THE PARTIES HERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE TERRITORY OF THE U.S. VIRGIN ISLANDS AND THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE, WITHOUT REGARD TO THE CONFLICT OF LAWS RULES THEREOF. THE BANKRUPTCY COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN THE PARTIES HERETO, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE AGREEMENTS, INSTRUMENTS AND DOCUMENTS CONTEMPLATED HEREBY AND THE PARTIES CONSENT TO AND AGREE TO SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT.

12. EACH PARTY HERETO HEREBY AGREES THAT THE ACTIVITIES CONTEMPLATED HEREBY ARE COMMERCIAL IN NATURE. TO THE EXTENT THAT ANY PARTY HERETO HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ATTACHMENT IN AID OF EXECUTION OR ANY OTHER LEGAL PROCESS (INCLUDING PREJUDGMENT ATTACHMENT) IN ANY ACTION OR PROCEEDING IN ANY MANNER ARISING OUT OF THIS AGREEMENT WITH RESPECT TO ITSELF OR ITS ASSETS, SUCH PARTY HEREBY IRREVOCABLY AGREES NOT TO INVOKE SUCH IMMUNITY AS A DEFENSE. THE USVI GOVERNMENT UNCONDITIONALLY AND IRREVOCABLY AGREES THAT THE EXECUTION, DELIVERY AND PERFORMANCE OF THIS AGREEMENT CONSTITUTES GOVERNMENTAL, COMMERCIAL ACTS WITH A PRIVATE PARTY, WHICH IS PERMISSIBLE UNDER SECTION 2 (B) OF THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS. IN FURTHERANCE OF THE FOREGOING SECTION, AND AS FURTHER ASSURANCE TO HOVENSA, THE USVI GOVERNMENT HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IN ANY ACTION ARISING OUT OF THIS AGREEMENT BROUGHT AGAINST THE USVI GOVERNMENT BY ANY PARTY HERETO IN ANY COURT WITH APPROPRIATE JURISDICTION OVER THE PARTIES, LOCAL OR FEDERAL, THE USVI GOVERNMENT WILL NOT ENTER A DEFENSE OF SOVEREIGN IMMUNITY IN AVOIDANCE OF ANY CLAIM ALLEGING BREACH OF CONTRACT, OR ANY CLAIM ALLEGING A COMMON-LAW OR STATUTORY TORT, OR THE ENFORCEMENT OF ANY JUDGMENT LAWFULLY OBTAINED AGAINST IT.
13. The USVI Government hereby represents and warrants that this Agreement is a valid and binding obligation of, and is enforceable against, the USVI Government in accordance with its terms. Hovensa hereby represents and warrants that it has the authority to execute this Agreement. To the extent permitted by law, the USVI Government indemnifies each Hovensa Releasee and the Environmental Response Trust from and against any and all Losses, directly or indirectly, relating to or arising from any breach of the representations set forth in the first sentence of this Section 13 and any claims asserted by any agency, department, board, or entity of the U.S. Virgin Islands (including, for the avoidance of doubt, the DPNR and the Virgin Islands Port Authority) on the grounds that this Agreement was not authorized by or is not binding upon such entity. To the extent permitted by law, Hovensa indemnifies each USVI Releasee from and against any and all Losses, directly or indirectly, relating to or arising from any breach of the representations set forth in the second sentence of this Section 13 and any claims asserted by Hovensa on the grounds that this Agreement was not authorized by such entity.
14. If any term, provision, agreement, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, agreements, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic and legal substance of the transactions contemplated hereby are not affected in any manner adverse to any party hereto. Upon such a determination, the parties hereto shall negotiate in good faith to modify this

Agreement so as to effect the original intent of the parties hereto as closely as possible in a reasonably acceptable manner in order that the transactions contemplated hereby may be consummated as originally contemplated to the fullest extent possible.

15. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES, AND SHALL CAUSE ITS SUBSIDIARIES AND AFFILIATES TO WAIVE, ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
16. The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and have participated jointly in the drafting of this Agreement and, therefore, waive the application of any Law, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.


* * * * *

IN WITNESS WHEREOF, the parties hereto have caused this Termination and Release Agreement to be signed by their duly authorized representatives as of the date first above written.

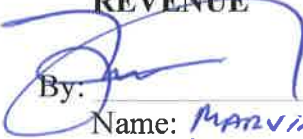
**GOVERNMENT OF THE U.S.
VIRGIN ISLANDS**

By: 
Name: _____
Title: _____

**APPROVED FOR LEGAL
SUFFICIENCY**

By: 
Name: **CLAUDE EARL WALKEN**
Title: Attorney General

**BUREAU OF INTERNAL
REVENUE**

By: 
Name: **MARVIN L. PICKERING**
Title: **DIRECTOR**

HOVENSA, L.L.C.

By: _____
Name: _____
Title: _____

HOVENSA L.L.C.

By: Thomas E Hill

Name: Thomas E. Hill

Title: Chief Restructuring Officer

EXHIBIT 1

Set out below are the terms required to be included in the liquidation plan, along with such other terms as the Parties may agree:

1. The creation of an Environmental Response Trust, with a trustee to be approved by the USVI Department of Natural Resources and the US Environmental Protection Agency (“**EPA**”), responsible for those activities associated with or relating to implementation of the Environmental Remediation Program, to be funded at a minimum in an initial cash deposit in the amount of \$5,000,000 upon the date the Environmental Response Trust becomes effective.

2. The Environmental Response Trust also will:
 - a. Obtain and maintain in full force and effect the Environmental Response Trust Insurance Policies under commercially reasonable terms with insurance carriers with AM Best Ratings of A- or greater and Financial Size Category XV or greater providing coverage, at a minimum, for cleanup and remediation of, and bodily injury or property damage arising from, presently unknown conditions at or emanating or migrating from the Facility and real property transferred from Hovensa in connection with the Asset Purchase Agreement, with per occurrence and aggregate limits of not less than \$50,000,000 (to be raised to \$75,000,000 if such limits are reasonably commercially available) and a deductible of no more than \$250,000 per occurrence to be paid by the Environmental Response Trust, and all on such other terms as are laid out in this Exhibit 1 or as Exhibit 1-A is amended. The Environmental Response Trust Insurance Policies shall:
 - i. have a 10-year term and the longest extended reporting period commercially available by the selected insurance carrier(s);
 - ii. include a duty to defend;
 - iii. provide coverage, terms, and conditions no less favorable than that afforded by the policy attached hereto and incorporated herein as Exhibit 1-A;
 - iv. identify the Environmental Response Trust as the first named insured and the USVI Government as a named insured (or as an Additional Insured per Exhibit 1-A herein) with respect to (A) the Leased Submerged Lands for all purposes and (B) the rest of the Facility other than the Leased Submerged Lands but solely with respect to

- any responsibilities, liabilities, legal requirements, losses, costs or expenses incurred or to be incurred under, pursuant to or in connection with the RCRA Permit and shall insure (with dedicated limits) all presently unknown conditions on or emanating from (whether on or off site) the Facility;
- v. be issued by insurance carriers with AM Best Ratings of A- or greater and Financial Size Category of XV or greater; and
 - vi. state that they may not be canceled, terminated, commuted (in whole or in part), modified, assigned, sold, endorsed, or otherwise altered in any form or manner without the express written permission of the USVI Government. Any change in the first named insured must be approved in writing by the USVI Government.
- b. bind, pay for (including paying in one lump sum the premium for the entire 10 year term, taxes, broker's commissions and any and all other costs or expenses) and procure the Environmental Response Trust Insurance Policies no later than January 29, 2016, and the 10 year policy period shall commence upon the Effective Date of the Plan.
 - c. reasonably cooperate with the USVI Government and EPA to facilitate the re-use of any portions of real property not disposed of by Hovensa to the extent permitted by Environmental Law and to provide all documents or information that are reasonably requested by the USVI Government or the EPA (except for documents and information that are subject to a legal privilege).
 - d. retain Industrial Economics Consultants in Cambridge, Massachusetts to study the Facility's impacts on its marine environment at a cost not to exceed \$320,000, on specifications approved by, and subject to the exclusive oversight of, the USVI Government after consultation with the Trust to satisfy any of the Trustee's fiduciary responsibilities, all as provided in the Environmental Trust Agreement.
 - e. assume Hovensa's obligations to disburse funds to the USVI Government for approved Supplemental Environmental Projects ("SEP") pursuant to the Consent Decree entered on June 7, 2011 in the United States District Court of the Virgin Islands in the matter of the United States of America and the United States Virgin Islands v. Hovensa L.L.C (Civ. No.: 1:11-cv-00006), all as provided in the Environmental Trust Agreement.
 - f. amend the SEP Escrow Account Agreement dated October 13, 2011 by and among Hovensa, the USVI Government, and JPMorgan Chase Bank,

National Association to have a five-year term, such term to be automatically renewed so long as money remains in the account, all as provided in the Environmental Trust Agreement.

Exhibit 1-A

See Attached PDF Files

Beazley will add “and [or; as indicated below] any Insured listed on any endorsement to this Policy entitled ‘Additional Named Insured’ Endorsement” in the following locations in the Policy:

- a. Paragraph immediately preceding Section I. And.
- b. III.F.4. Or.
- c. III., K.1. And.
- d. III., K.2., 3, and 4. Or
- e. III, R and W 1-3, and Y. Or
- f. VI, C. 1. And/or
- g. IX. B, Second paragraph. And/or
- h. X.A.1 and B1. and/or in the first place and and in the second.
- i. XIV. 1st and 2nd paragraph, following 3 and on top of page 21. and
- j. XVII. OK, for the first item “and/or” is probably best.
- k. XXI. And All payment, notices, etc. will go through the Named Insured as the controlling entity so this insertion does not appear to be appropriate for this condition

Fourth, my comments a-z. Beazley indicated agreement to all **except** as indicated below (some of the items in yellow are not disagreement by Beazley but merely explanation or notes).

- a. Policy will provide that the Trust (and not USVI) will pay any and all deductibles.
- b. Add claims arising out of any insured contracts as part of the “give back” in exclusion VI. C. 2 so that it mirrors the language in VI. D.2.
- c. Remove exclusion VI. J or add language to make sure it is not applicable here.
- d. Remove pending or prior litigation exclusion. Entire exclusion may potentially be removed (Beazley considering) and if not removed it will be narrowed so as to only be applicable to the actual claims and not new claims which may be similar or arise from similar facts. The parties will work cooperatively to remove or narrow this exclusion to the maximum extent commercially available from Beazley.
- e. Institutional Controls or Engineering Controls applicable to the property for purposes of exclusion VI. M will be listed in an endorsement. Hovensa to provide list of same. The parties will work cooperatively to narrow this exclusion to the maximum extent commercially available from Beazley.
- f. What is the scope of the exclusion for closure/post closure costs for landfarms?

How do we narrow so that unknowns are included in coverage outside the closure post closure costs? Beazley considering. The parties will work cooperatively to remove or narrow this exclusion to the maximum extent commercially available from Beazley.

- g. Modify language for post corrective action ground water monitoring so that unknowns are covered (but contemplated ground water monitoring costs are not covered).
- h. Material change in use exclusion (covering “Criteria Oil transfer terminal, refinery”) will be expanded so that “approved” uses (that is, non-excluded uses which do not constitute a Material Change in Use) also include commercial and industrial uses and removal/demolition of buildings/structures. Etc.
- j. With respect to known pollution conditions exclusion, change the carve back so it is mandatory, as follows: “With respect to this exclusion, in the event a No Further Action (NFA) letter or similar documentation is issued by the applicable regulatory authority which states that no further action is required with respect to the Pollution Conditions excluded by this Endorsement, effective upon the provision of reasonable evidence of such No Further Action determination to Beazley, this Endorsement will be deleted or modified, as appropriate, by the Underwriters to remove those Pollution Conditions that are the subject of the NFA or similar documentation, without charge or additional premium.” And delete the following from this endorsement: “In no event shall the Underwriters be liable for Pollution Conditions that arose prior to: (1) the effective date of the Endorsement deleting or modifying this specific Endorsement; or (2) Cleanup Costs or Claims Expenses resulting from such Cleanup Costs that were incurred to achieve such No Further Action status.”
- k. The policy will be endorsed providing that, notwithstanding anything to the contrary in the Policy or any endorsements, the Policy cannot be cancelled, terminated, commuted (in whole or in part), modified, assigned, sold, endorsed, or otherwise altered in any form or manner without the express written permission of the USVI Government (including that any change in the first named insured must be approved in writing by the USVI Government).
- l. Beazley will add wording regarding coverage will not be denied due to late notice but only for actual prejudice.
- m. Policy will provide that Underwriters and USVI shall “mutually” agree upon selection of counsel for USVI.
- n. There will be no retroactive date since this is legacy coverage.
- o. Anticipated Inception Date is agreed upon in concept.
- p. Add “existence” to the definition of Pollution Condition.

- q. Change settlement hammer clause (IV. D.) to 50% carrier responsibility for costs if settlement rejected.
- r. Add to the end of exclusion VI. A. "Notwithstanding the foregoing, nothing in this exclusion shall apply to the actual or alleged actions or inactions of any Named Insured or Insured prior to the inception date of this Policy."
- s. For purposes of VI. N, all currently existing USTs will be disclosed and listed on the schedule. The exclusion will be modified so that it is not applicable to anything other than USTs currently in use (that is, no exclusion for former/removed/closed USTs).
- t. Section XI, modify language so that policy cannot be cancelled or coverage prejudiced in the event of an inadvertent misrepresentation.
- u. Change XIV so that the insurance is non-cancelable against any insured other than for non-payment of premium or material misrepresentation or fraud of the insured against whom cancellation is sought. The following language will be used:

I. XIV. CANCELLATION

This Insurance is not cancellable by the **Named Insured** or by any **Insured**. This Insurance may be cancelled only by the Underwriters, by mailing to the **Named Insured** and to any Insured listed on any endorsement to this Policy entitled 'Additional Named Endorsement' at the addressees indicated for all of the foregoing in this policy a notice stating when thereafter such cancellation shall be effective. The Underwriters may only cancel this Insurance for the following reasons and on the following terms and conditions:

1. The insurance may be cancelled with respect to the **Named Insured** only if the **Named Insured** made a material misrepresentation or committed fraud in the **Application**; however, such cancellation would not apply to any Insured listed on any endorsement to this Policy entitled 'Additional Named Insured' Endorsement; or
2. failure to pay the premium when due.

The effective date and hour of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice by the Underwriters shall be the equivalent of mailing. Notice of pending cancellation will be provided not less than: (a) thirty (30) days prior to the effective date of cancellation for material misrepresentation or fraud; or (b) ten (10) days prior to the effective date of cancellation for non-payment of premium.

- If the Underwriters cancel, subject to any minimum earned premium that may apply, the return premium will be calculated on a pro rata basis.
- v. In XV and XXII, specify that the insured is under no obligation to provide any privileged materials to the insurance carrier.
 - w. Add a choice of law provision for New York law and consent to exclusive jurisdiction in the VI.
 - x. Add to the start of XVI: “Except for actions by any insured to enforce obligations of any Underwriters under this policy, ...”
 - y. Add waiver of subrogation against USVI.
 - z. Change XXVIII as follows: “Except with respect to the Limit of Liability, Clause XI. and any rights and duties assigned in this Policy only to the Named Insured, this Insurance applies as if each Named Insured and Insured were the only Named Insured and Insured and separately to each Named Insured and Insured against whom a Claim is made. Without limiting the generality of the foregoing, all coverage determinations, and the applicability or non-applicability of any terms, conditions or exclusions of this policy, or compliance or non-compliance with any of its requirements, shall be made separately for each Named Insured and Insured and shall not be deemed to apply to one Named Insured or Insured merely because they may be applicable to any other Named Insured or Insured.”

The USVI Government will be added as an Additional Insured on the Beazley endorsement entitled “Additional Named Insured” with respect to (A) the Leased Submerged Lands for all purposes and (B) the rest of the Facility other than the Leased Submerged Lands but solely with respect to any responsibilities, liabilities, legal requirements, losses, costs or expenses incurred or to be incurred under, pursuant to or in connection with the RCRA Permit.

The parties will continue to endeavor to have the known condition exclusion circulated on 12/30/15 at 4:36 pm from Marsh to Beazley approved by Beazley, subject to Beazley’s final determination. In the event Beazley will not accept in full the exclusions circulated on 12/30/15 at 4:36 pm from Marsh to Beazley, the parties will agree to use the known condition exclusion ultimately agreed to by Beazley.

The parties will continue to endeavor to narrow the scope of the exclusion for closure/post closure costs for landfarms if possible, subject to Beazley’s final determination. In the event Beazley will not narrow the scope of the exclusion for closure/post closure costs for landfarms, the parties agree that the ultimate exclusion agreed to by Beazley will be acceptable.

The parties will continue to reasonably coordinate on finalizing the disclosed document

schedule, subject to Beazley's final determination.

The parties will continue to work cooperatively to remove or minimize exclusions related to National Resource Damages and to prior litigation/claims, subject to Beazley's final determination.

EXHIBIT 2

1. RCRA Permit.
2. RCRA Permit to Generate and Store Hazardous Waste STX. C-064.
3. RCRA Special Solid Waste Permit to Generate and/or Store/Treat/Dispose Used Oil STX.C-002.
4. RCRA Post-Closure Permit No. PRD980536080.