

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

Westmoreland Coal Company, et al.,<sup>1</sup>

Debtors.

Chapter 11

Case No. 18-35672 (DRJ)

(Jointly Administered)

**FIRST AMENDMENT TO THE PLAN SUPPLEMENT FOR THE  
AMENDED JOINT PLAN OF LIQUIDATION FOR THE WMLP DEBTORS<sup>2</sup>**

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<sup>1</sup> Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the Debtors and the last four digits of their tax identification, registration, or like numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent in these chapter 11 cases at [www.donlinrecano.com/westmoreland](http://www.donlinrecano.com/westmoreland). Westmoreland Coal Company's service address for the purposes of these chapter 11 cases is 9540 South Maroon Circle, Suite 300, Englewood, Colorado 80112.

<sup>2</sup> The "WMLP Debtors" consist of the following entities: Westmoreland Resources GP, LLC; Westmoreland Resource Partners, LP; Westmoreland Kemmerer, LLC; Westmoreland Kemmerer Fee Coal Holdings, LLC; Oxford Mining Company, LLC; Harrison Resources, LLC; Oxford Mining Company-Kentucky, LLC; Daron Coal Company, LLC; and Oxford Conesville, LLC.

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**Liquidation Trust Agreement**

## **LIQUIDATION TRUST AGREEMENT AND DECLARATION OF TRUST**

This liquidation trust agreement and declaration of trust (this "Agreement"), dated as of June [\_\_], 2019, is made by and among Westmoreland Resources GP, LLC; Westmoreland Resource Partners, LP; Westmoreland Kemmerer, LLC; Westmoreland Kemmerer Fee Coal Holdings, LLC; Oxford Mining Company, LLC; Harrison Resources, LLC; Oxford Mining Company-Kentucky, LLC; Daron Coal Company, LLC; and Oxford Conesville, LLC (collectively, the "WMLP Debtors"), and gtCFOServices LLC, a single-member California limited liability company, of which Gerald A. Tywoniuk is the sole member (the "Trustee," and together with the WMLP Debtors, the "Parties").

### **RECITALS**

WHEREAS On October 9, 2018, each of the WMLP Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Bankruptcy Court"), jointly administered under Case No. 18-35672 (the "Chapter 11 Cases").

WHEREAS On October 18, 2018, the Office of the United States Trustee filed the *Notice of Appointment of Committee of Unsecured Creditors* [Docket No. 206], notifying parties in interest that the U.S. Trustee had appointed a statutory committee of unsecured creditors (the "Creditors' Committee") in the Chapter 11 Cases.

WHEREAS The WMLP Debtors filed the *Amended Joint Plan of Liquidation for the WMLP Debtors* on June 3, 2019 (as may be further modified, amended, or supplemented from time to time, and including all exhibits and supplements, the "WMLP Plan").

WHEREAS On June [\_\_], 2019, the Bankruptcy Court entered an order (the "Confirmation Order") confirming the WMLP Plan.

WHEREAS The WMLP Plan and Confirmation Order provide for the establishment of the Liquidation Trust ("Trust") effective on the effective date of the WMLP Plan (the "Plan Effective Date").

WHEREAS The WMLP Plan, the Confirmation Order, and this Agreement provide for the appointment of the Trustee as Liquidation Trustee of the Trust, and the WMLP Plan and this Agreement provide for the appointment as necessary of any successor Liquidation Trustee of the Trust.

WHEREAS The Trust is established for the benefit of the holders of Allowed Credit Agreement Claims under the WMLP Plan until such time as such Allowed Credit Agreement Claims are paid in full (collectively the "Beneficiaries") in accordance with the WMLP Plan, and for purposes of making Distributions to Holders of other Allowed Claims to the extent provided under the WMLP Plan.

WHEREAS The Trust is established for the purpose of liquidating the Liquidation Trust Assets, determining which Claims are Plan Confirmation Claims in accordance with Section II.D of the WMLP Plan, resolving all Disputed Claims, making Distributions to the Beneficiaries and other Holders of Allowed Claims in accordance with the terms of the WMLP Plan and otherwise implementing the WMLP Plan. Notwithstanding anything to the contrary herein or in the WMLP Plan, the Trust's sole purpose is liquidating the Liquidation Trust Assets, with no objective to continue or engage in the conduct of a trade or business. The Trust shall engage in activities only to the extent reasonably necessary to, and consistent with, the Liquidation Trust's liquidating purpose and reasonably necessary to conserve and protect the Liquidation Trust Assets and provide for the orderly liquidation thereof.

WHEREAS Pursuant to the WMLP Plan, all parties, including the WMLP Debtors, the Trust, the Trustee, and the Beneficiaries, are required to treat, for all U.S. federal income tax purposes, the transfer of the Liquidation Trust Assets to the Trust, as set forth herein, as (a) in part, a transfer of the Liquidation Trust Assets by the WMLP Debtors to the Beneficiaries, followed by a transfer of the Liquidation Trust Assets by the Beneficiaries to the Trust, in exchange for the beneficial interest in the Trust, and to treat the Beneficiaries as the grantors and owners of the Trust for U.S. federal income tax purposes and (b) in part, the transfer of assets by the WMLP Debtors to one or more disputed claims reserves.

WHEREAS Pursuant to the WMLP Plan, the Trust is intended for U.S. federal income tax purposes (a) to be treated as a grantor trust within the meaning of sections 671-677 of the Internal Revenue Code of 1986, as amended (“IRC”), and also (b) to qualify as a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d).

WHEREAS In accordance with the WMLP Plan, the Trust is further intended to be exempt from the requirements of (a) the Securities Exchange Act of 1933, as amended, and any applicable state and local laws requiring registration of securities, and (b) the Investment Company Act of 1940, as amended, pursuant to sections 7(a) and 7(b) of that Act and section 1145 of the Bankruptcy Code.

NOW, THEREFORE, in accordance with the WMLP Plan and the Confirmation Order, and in consideration of the premises, and the mutual covenants and agreements of the Parties contained in the WMLP Plan and herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and affirmed, the Parties agree and declare as follows:

## **ARTICLE 1** **DECLARATION OF TRUST**

1.1 The WMLP Debtors and the Trustee enter into this Agreement to effectuate the distribution of the Liquidation Trust Assets to the Beneficiaries pursuant to the WMLP Plan and the Confirmation Order;

1.2 Pursuant to the WMLP Plan, the Confirmation Order, and this Agreement, all right, title, and interest in, under, and to the Liquidation Trust Assets shall be absolutely and irrevocably assigned to the Trust and to its successors in trust and its successors and assigns;

1.3 TO HAVE AND TO HOLD unto the Trustee and its successors in trust; and

1.4 IT IS HEREBY FURTHER COVENANTED AND DECLARED, that the Liquidation Trust Assets are to be held by the Trust and applied on behalf of the Trust by the Trustee on the terms and conditions set forth herein, solely for the benefit of the Beneficiaries and for no other party. For the avoidance of doubt, Holders of Allowed Administrative Expense Claims, Holders of Allowed Plan Confirmation Claims and any party entitled to receive Distributions (if any) under the WMLP Plan may receive Distributions from the Liquidation Trust Assets but shall not be Beneficiaries.

## **ARTICLE 2** **RECITALS, WMLP PLAN DEFINITIONS, OTHER DEFINITIONS, AND INTERPRETATION**

2.1 Recitals. The Recitals are incorporated into and made terms of this Agreement.

2.2 Use of WMLP Plan Definitions. All capitalized terms used in this Agreement but not defined herein shall have the same meaning set forth in the WMLP Plan.

2.3 Interpretation; Headings. All references herein to specific provisions of the WMLP Plan or Confirmation Order are without exclusion or limitation of other applicable provisions of the WMLP Plan or Confirmation Order. Words denoting the singular number shall include the plural number and vice versa,

and words denoting one gender shall include the other gender. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the provisions of this Agreement.

2.4 Conflict Among WMLP Plan Documents. To the extent of any inconsistency between this Agreement and the WMLP Plan or the Confirmation Order, the WMLP Plan or the Confirmation Order, as applicable, shall control.

### **ARTICLE 3** **ESTABLISHMENT OF TRUST**

3.1 Establishment of the Trust. Pursuant to the WMLP Plan, the Parties hereby establish the Trust.

3.2 Effectiveness of Agreement; Name of Trust. This Agreement shall become effective on the Plan Effective Date. The Trust shall be officially known as the “WMLP Liquidation Trust,” in which name the Trustee may, among other things, carry out the functions of the Trust, effectuate the liquidating purpose of the Trust, retain professionals and pay fees and costs incurred by such professionals as permitted pursuant to the WMLP Plan and this Agreement, make and execute contracts on behalf of the Trust, sue and be sued on behalf of the Trust, and take such other actions as the Trustee is authorized to take pursuant to the WMLP Plan and this Agreement.

3.3 Purpose of Trust. The Trust is established for the purpose of liquidating the Liquidation Trust Assets, determining which Claims are Plan Confirmation Claims and taking appropriate action in accordance with Section II.D of the WMLP Plan, resolving all Disputed Claims, making Distributions to Beneficiaries, and to the extent required under the WMLP Plan, making Distributions to Holders of other Allowed Claims, all in accordance with the terms of the WMLP Plan and otherwise implementing the WMLP Plan.

3.4 Appointment of Trustee. Gerald A. Tywoniuk is hereby appointed as the Trustee and hereby accepts such appointment as the Trustee. On the Plan Effective Date and automatically, and without further action, the Trustee will have the full power and authority as the trustee of the Trust in accordance with the WMLP Plan and this Agreement to take any and all actions as he believes may be reasonably necessary, desirable, or appropriate with respect to the Trust, subject to the WMLP Plan, the Confirmation Order, and this Agreement.

3.5 Conveyance of Liquidation Trust Assets. The WMLP Debtors hereby grant, release, assign, transfer, convey and deliver the Liquidation Trust Assets, including without limitation, the Retained Causes of Action, to the Trust as of the Plan Effective Date, to be held in trust for the benefit of the Beneficiaries to be administered and applied as specified in this Agreement, the WMLP Plan, and the Confirmation Order. The WMLP Debtors shall, if reasonably requested by the Trustee on the Plan Effective Date, execute and deliver or cause to be executed and delivered all such documents (in recordable form where necessary or appropriate), and the WMLP Debtors shall take or cause to be taken such further action on the Plan Effective Date as the Trustee may reasonably deem necessary or appropriate, to vest or perfect in the Trust or confirm to the Trustee title to and possession of the Liquidation Trust Assets.

3.6 Title to Trust Assets. Pursuant to the WMLP Plan, all of the WMLP Debtors’ right, title, and interest in and to the Liquidation Trust Assets, including all such assets held or controlled by third parties, if any, are automatically vested in the Trust on the Plan Effective Date, free and clear of all liens, claims, encumbrances and other interests, and such transfer is on behalf of the Beneficiaries to establish the Trust. The Trust shall be authorized to obtain possession or control of, liquidate, and collect all of the Liquidation Trust Assets in the possession or control of third parties and pursue all of the Retained Causes of Action that constitute Liquidation Trust Assets. Notwithstanding entry of the Confirmation Order, the Trust shall have the right to invoke § 542 of the Bankruptcy Code to pursue turnover of Liquidation Trust Assets. On the Plan Effective Date, the Trust shall be substituted for the WMLP Debtors for all purposes with respect to the Liquidation Trust Assets and administration of Claims, and shall be deemed to be

substituted as the party to any litigation in which the WMLP Debtors are a party, including, but not limited to (a) pending contested matters or adversary proceedings in the Bankruptcy Court, including any Filed objection to Claims that remain pending as of the Plan Effective Date, (b) any appeals of orders of the Bankruptcy Court, and (c) any state court or federal or state administrative proceedings pending as of the Petition Date. To the extent any law or regulation prohibits the transfer of ownership of any of the Liquidation Trust Assets from the WMLP Debtors to the Trust and such law is not superseded by the Bankruptcy Code, the Trust's interest shall be a lien upon and security interest in such Liquidation Trust Assets, in trust, nevertheless, for the sole use and purposes set forth in Section 3.3, and this Agreement shall be deemed a security agreement granting such interest thereon without need to file financing statements or mortgages. By executing this Agreement, the Trustee on behalf of the Trust hereby accepts all of such property as Liquidation Trust Assets, to be held in trust for the Beneficiaries, subject to the terms of this Agreement, the WMLP Plan, and the Confirmation Order.

3.7 Capacity of Trust. Notwithstanding any state or federal law to the contrary or anything herein, the Trust shall itself have the capacity, in its own right and name, to act or refrain from acting, including the capacity to sue and be sued and to enter into contracts. The Trust may alone be the named movant, respondent, party plaintiff or defendant, or the like in all adversary proceedings, contested matters, and other state or federal proceedings brought by or against it, and may settle and compromise all such matters in its own name.

3.8 Cooperation of WMLP Debtors. The WMLP Debtors shall reasonably cooperate with the Trust and Trustee in effecting the transition from the WMLP Debtors to the Trust of administration of Claims consistent with the WMLP Plan or Confirmation Order.

#### **ARTICLE 4** **ADMINISTRATION OF TRUST**

4.1 Rights, Powers, and Privileges of Trustee Generally. Except as otherwise provided in this Agreement, the WMLP Plan, or the Confirmation Order, as of the date that the Liquidation Trust Assets are transferred to the Trust, the Trustee on behalf of the Trust may control and exercise authority over the Liquidation Trust Assets, over the acquisition, management, and disposition thereof, and over the management and conduct of the affairs of the Trust (and, for the avoidance of doubt, subject to the Liquidation Trust Oversight Committee consultation, direction and/or approval to the extent required herein). In administering the Liquidation Trust Assets, the Trustee shall endeavor not to unduly prolong the Trust's duration, with due regard that undue haste in the administration of the Liquidation Trust Assets may fail to maximize value for the benefit of the Beneficiaries and otherwise be imprudent and not in the best interests of the Beneficiaries.

4.2 Governance of the Trust. The Trust will be administered and controlled by the Trustee.

4.3 Power to Contract. In furtherance of the purpose of the Trust, and except as otherwise provided in the WMLP Plan, Confirmation Order, or this Agreement, the Trustee shall have the right and power on behalf of the Trust, and also may cause the Trust, to enter into any agreements, instruments, or other documents necessary to implement the WMLP Plan, and to execute, acknowledge, and deliver any and all agreements, instruments, or other documents that are necessary or deemed by the Trustee to be consistent with and advisable in furthering implementation of the WMLP Plan.

4.4 Ultimate Right to Act Based on Advice of Counsel or Other Professionals. Nothing in this Agreement shall be deemed to prevent the Trustee from taking or refraining to take any action on behalf of the Trust that, based upon the advice of counsel or other professionals, the Trustee determines it is obligated to take or to refrain from taking in the performance of any duty that the Trustee may owe the Beneficiaries or any other Person under the WMLP Plan, Confirmation Order, or this Agreement.

4.5 Powers of Trustee. Without limiting the generality of the above Section 4.1 of this Article 4, in addition to the powers granted in the WMLP Plan, the Trustee shall have the power to take the following

actions on behalf of the Trust and any powers reasonably incidental thereto that the Trustee, in the Trustee's reasonable discretion, deems necessary or appropriate to fulfill the purpose of the Trust, without further approval required (for the avoidance of doubt, subject to Liquidation Trust Oversight Committee consultation, direction and/or approval to the extent required herein) unless otherwise specifically limited or restricted by the WMLP Plan, Confirmation Order or this Agreement:

(a) accept, preserve, receive, collect, manage, invest, sell, liquidate, transfer, supervise, prosecute, settle and protect, as applicable, the Liquidation Trust Assets, in accordance with the WMLP Plan, either directly or through the Trust's professionals or a Third Party Disbursing Agent, as well as receive any Professional Fee Escrow Surplus for distribution in accordance with the WMLP Plan;

(b) review, reconcile, settle, or object to all Claims that are Disputed Claims as of the Plan Effective Date pursuant to the WMLP Plan;

(c) calculate and make Distributions of the proceeds of the Liquidation Trust Assets to Holders of Allowed Claims as provided in the WMLP Plan;

(d) hold legal title to any and all rights of the Beneficiaries in or arising from the Liquidation Trust Assets;

(e) subject to Section III.G of the WMLP Plan, and subject to the direction of the Liquidation Trust Oversight Committee, cause the Trust to pursue, commence, prosecute, compromise, settle, dismiss, release, waive, withdraw, abandon, resolve, or assign all Retained Causes of Action (including any counterclaims asserted against the Liquidation Trust or related judgements) as the Liquidation Trustee determines is in the best interests of the Liquidation Trust;

(f) determine which Claims constitute Plan Confirmation Claims, and shall dispute, object to, compromise or seek to recharacterize, reclassify, or disallow such Plan Confirmation Claims in accordance with Article VI of the WMLP Plan;

(g) file all documents and take all other necessary actions to effect the dissolution of WMLP, WMGP, and each Subsidiary WMLP Debtor under their respective constituent documents and Delaware or other applicable state law and, as of the Plan Effective Date, assume any such outstanding obligation of WMLP, WMGP, or such Subsidiary WMLP Debtor, under the WMLP Plan;

(h) file all Tax returns and pay all Taxes as required by the WMLP Plan and this Agreement;

(i) file, withdraw, or litigate to judgment, objections to Claims;

(j) settle or compromise any Disputed Claim (other than a Professional Fee Claim);

(k) compromise or settle any Claims against the WMLP Debtors;

(l) conduct any sales, liquidations, litigation, settlement, or other disposition of non-Cash Liquidation Trust Assets for disposition in accordance with the terms of the WMLP Plan;

(m) issue, execute, deliver, file, or record any contract, security, instrument, release, or other agreements or documents, and take such actions as may be necessary or appropriate to effectuate, implement, and evidence the terms and conditions of the WMLP Plan and the Dissolution Transactions;

(n) enforce each Executory Contract and Unexpired Lease assumed pursuant to the WMLP Plan or separate order of the Bankruptcy Court, and not assigned to a third party on or before the Plan Effective Date, and take any and all actions necessary to implement any assignment of an Executory Contract or Unexpired Lease pending before the Bankruptcy Court as of the Plan Effective Date;

(o) establish, maintain, and administer the Trust Accounts, which shall be segregated to the extent appropriate in accordance with the WMLP Plan, and create additional sub-accounts in the Trust Accounts and sub-trusts within the Liquidation Trust;

- (p) invest or direct any Third Party Disbursing Agent to invest Cash in the Trust Accounts, subject to the limitations set forth herein;
- (q) subject to the direction of the Liquidation Trust Oversight Committee, protect and enforce the rights to the Liquidation Trust Assets (including any Retained Causes of Action) vested in the Trust and Trustee by this Agreement by any method deemed appropriate, including, without limitation, by the initiation or pursuit of judicial proceedings or otherwise;
- (r) subject to the direction of the Liquidation Trust Oversight Committee, investigate any Liquidation Trust Assets, including potential Retained Causes of Action, and any objections to Disputed Claims, and cause the Trust to seek the examination of any Entity or Person pursuant to Federal Rule of Bankruptcy Procedure 2004;
- (s) upon motion to the Bankruptcy Court, request one or more extensions to the Claims Objection Bar Date generally or with respect to a specific list of claims;
- (t) cause the Trust to pay all of its lawful expenses, debts, charges, taxes and other liabilities, and make all other payments relating to the Liquidation Trust Assets;
- (u) cause the Trust to withhold from the amount distributable to any Person the maximum amount needed to pay any tax or other charge that the Trustee has determined, based upon the advice of its agents and/or professionals, may be required to be withheld from such distribution under the income tax or other laws of the United States or of any state or political subdivision thereof;
- (v) amend the Schedules with respect to any Claim and to make distributions based on such amended Schedules (if not proof of Claim is timely Filed in response thereto), without approval of the Bankruptcy Court, in accordance with the WMLP Plan;
- (w) enforce, carry out, and comply with the terms of the WMLP Plan, Confirmation Order, and this Agreement;
- (x) calculate and make all Distributions on behalf of the Trust to the Beneficiaries provided for in, or contemplated by, the WMLP Plan and this Agreement;
- (y) cause the Trust to send annually to Beneficiaries, in accordance with the tax laws, a separate statement stating a Beneficiary's interest in the Trust and its share of the Trust's income, gain, loss, deduction or credit, and to instruct all such Beneficiaries to report such items on their federal tax returns;
- (z) seek any relief from or resolution of any disputes concerning the WMLP Plan, the Trust, or the Liquidation Trust Assets by the Bankruptcy Court or any other court having jurisdiction, and appear and participate in any proceeding before the Bankruptcy Court or any other court with jurisdiction with respect to any matter regarding or relating to this Agreement, the WMLP Plan, Confirmation Order, the Trust, or the Liquidation Trust Assets;
- (aa) cause the Trust to establish such reserves for taxes, assessments and other expenses of administration of the Trust as may be necessary and appropriate for the proper operation of matters incident to the Trust;
- (bb) if any of the Liquidation Trust Assets are situated in any state or other jurisdiction in which the Trustee is not qualified to act as trustee, nominate and appoint a Person duly qualified to act as trustee in such state or jurisdiction in accordance with the terms of this Agreement;
- (cc) undertake all administrative functions of the Trust, including overseeing the winding down and termination of the Trust;
- (dd) exercise such other powers as may be vested in the Trust pursuant to the WMLP Plan, or as are deemed by the Liquidation Trustee to be necessary and proper to implement the provisions of the WMLP Plan and this Agreement; and

(ee) take such actions as are necessary or appropriate to close the WMLP Debtors' Chapter 11 Cases; and dissolve the Trust in accordance with the terms herein.

4.6 Exclusive Authority to Pursue Retained Causes of Action. The Trust shall have the exclusive right, power, and interest (for the avoidance of doubt, subject to the direction of the Liquidation Trust Oversight Committee) to pursue, settle, waive, release, abandon, or dismiss the Retained Causes of Action. The Trust shall be the sole representative of the WMLP Debtors' estates under § 1123(b)(3) of the Bankruptcy Code with respect to the Retained Causes of Action.

4.7 Abandonment. If, in the Trustee's reasonable judgment, any non-cash Liquidation Trust Assets cannot be sold in a commercially reasonable manner or the Trustee believes in good faith that such property has inconsequential value to the Trust or its Beneficiaries, the Trustee shall have the right to cause the Trust to abandon or otherwise dispose of such property, including by donation of such property to a charity.

4.8 Selection of Agents. To the extent consistent with the WMLP Plan, the Trustee may select and employ, and determine compensation for any Disbursing Agent or Third Party Disbursing Agent, or any professionals, including accountants, financial advisors, legal advisors, brokers, consultants, custodians, and other agents, as the Trustee deems necessary to assist him in carrying out its duties, with the reasonable fees and expenses of such professionals to be paid from the Trust.

4.9 Signature Authority. As of the Plan Effective Date of the WMLP Plan, the Trustee shall have the signature authority on behalf of the Trust to: (a) open and close accounts with any banking, financial, or investment institution; (b) make deposits and withdrawals of cash and other property into or from any such accounts; (c) make or endorse checks with respect to any such account; and (d) effectuate purchases and sales of securities and give security purchase and sale orders to brokers or any third parties, and the exercise of such power and authority shall be deemed to be authorized by and to represent the decision of the Trustee then entitled to make such decision.

4.10 Maintenance of Register. The Trustee shall at all times maintain or cause to be maintained a register of the names, addresses, and number of Beneficiaries.

4.11 Responsibility for Administration of Claims. As of the Plan Effective Date, the Trust shall become responsible for administering and paying Distributions to Beneficiaries and Holders of other Allowed Claims to the extent provided in the WMLP Plan. The Trust shall have the exclusive right to object to the allowance of any Claim on any ground and shall be entitled to assert all defenses of the WMLP Debtors and their Estates. The Trust shall also be entitled to assert all of the WMLP Debtors' Estates' rights under, without limitation, § 558 of the Bankruptcy Code; provided, however, that the failure to effect a setoff shall not constitute a waiver or release by the Trust of any claim against another party. The Trust may also seek estimation of any Claims under and subject to § 502(c) of the Bankruptcy Code.

4.12 Agents and Professionals. The Trustee may, but shall not be required to, consult with and, retain and pay in the ordinary course of business Professionals to represent the Liquidation Trust, provided that funding for such professionals and/or expenses shall be paid from the Liquidation Trust Administration Amount (to the extent such funding has not been deemed to be an Assumed Liability (as defined in the Kemmerer APA) in accordance with the Kemmerer APA) in accordance with the Liquidation Trust Administration Budget.

4.13 Safekeeping and Investment of Liquidation Trust Assets. All moneys and other assets received by the Trustee shall, until distributed or paid over as provided herein and in the WMLP Plan, be held in trust for the benefit of the Beneficiaries, but need not be segregated in separate accounts from other Liquidation Trust Assets, unless and to the extent required by applicable law or the WMLP Plan. The Trustee shall not be under any obligation to invest Liquidation Trust Assets. Neither the Trust nor the Trustee shall have any liability for interest or producing income on any moneys received by either of them and held for distribution or payment to the Beneficiaries, except as such interest shall actually be received

by the Trust or Trustee, which shall be distributed as provided in the WMLP Plan. Except as otherwise provided by the WMLP Plan, the right and power of the Trustee to invest the Liquidation Trust Assets, the proceeds thereof, or any income earned by the Liquidation Trust, shall be limited to the right and power that a liquidating trust, within the meaning of section 301.7701-4(d) of the Treasury Regulations, is permitted to hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, including Revenue Procedure 94-45, whether set forth in IRS rulings or other IRS pronouncements, and to the investment guidelines of § 345 of the Bankruptcy Code. For the avoidance of doubt, under no circumstances shall the provisions of Texas Property Code § 117 (Texas Uniform Prudent Investor Act) apply to this Agreement. Notwithstanding the foregoing, the Trustee shall not be prohibited from engaging in any trade or business on its own account, provided that such activity does not interfere or conflict with the Trustee's administration of the Trust.

4.14 Maintenance and Disposition of Trust Records. The Trustee shall maintain accurate records of the administration of Trust Assets, including receipts and disbursements, and other activity of the Trust. If so determined by the Trustee in the discretion of its sole member, all books and records pertaining to the WMLP Debtors or the Liquidation Trust that have been delivered to or created by the Liquidation Trust or the Trustee may be destroyed using reasonable commercial means at any time following (a) the date that is six years after the final distribution of Liquidation Trust Assets (unless such records and documents are necessary to fulfill any of the Trustee's remaining obligations, including obligations related to tax returns for the Liquidation Trust) subject to the terms of any joint prosecution and joint interest agreement(s) to which the Liquidation Trust may be a party or (b) such earlier date as may be approved by order of the Bankruptcy Court on application of the Liquidation Trust.

The books and records maintained by the Trustee may be disposed of by the Trustee at the later of (i) such time as the Trustee determines that the continued possession or maintenance of such books and records is no longer necessary for the benefit of the Trust or its Beneficiaries or (ii) upon the termination and completion of the winding down of the Trust.

4.15 Reporting Requirements. The Trustee shall, following the occurrence of the Plan Effective Date, file with the Bankruptcy Court (and provide to any other party entitled to receive any such report) no later than 45 days after June 30 and December 31 of each calendar year, a semi-annual report regarding the administration of property subject to its ownership and control under the WMLP Plan, distributions made by it, and other matters relating to the implementation of the WMLP Plan, with the first such report due no later than 45 days following December 31, 2019.

4.16 Conflicts of Interest. The Trustee will appoint a disinterested Person to handle any matter where the Trustee has identified a conflict of interest or the Bankruptcy Court, on motion of a party in interest, determines one exists. In the event the Trustee is unwilling or unable to appoint a disinterested Person to handle any such matter, the Bankruptcy Court, on notice and hearing, may do so.

4.17 Incorporation of WMLP Plan. The WMLP Plan is hereby incorporated into this Agreement and made a part hereof by this reference. If there is any direct conflict between the WMLP Plan and the terms of this Agreement, the terms of the WMLP Plan shall control solely to the extent of such conflict.

4.18 No Bond Required; Procurement of Insurance. Notwithstanding any state or other applicable law to the contrary, the Trustee (including any successor Trustee) shall be exempt from giving any bond or other security in any jurisdiction and shall serve hereunder without bond. The Trustee is hereby authorized, but not required, to obtain all reasonable insurance coverage for itself, its member, agents, representatives, employees or independent contractors, including, without limitation, coverage with respect to the liabilities, duties, and obligations of the Trustee and its member, agents, representatives, employees, or independent contractors under this Agreement. The cost of any such insurance coverage shall be an expense of the Trust and paid out of Liquidation Trust Assets.

**ARTICLE 5**  
**LIQUIDATION TRUST OVERSIGHT COMMITTEE**

5.1 Liquidation Trust Oversight Committee. The Liquidation Trust Oversight Committee shall have three members selected by the Beneficiaries, and is hereby established as of the Plan Effective Date pursuant to Section III.B.5 of the WMLP Plan to advise, assist, supervise and direct the Liquidation Trustee in the administration of the Liquidation Trust pursuant to this Agreement. Members of the Liquidation Trust Oversight Committee constituting a majority of the total number of members of the Liquidation Trust Oversight Committee then in office shall have the right to direct and remove the Liquidation Trustee for Cause (as defined below), and shall have such other rights to operate and manage the Liquidation Trust as are not inconsistent with the Confirmation Order, the WMLP Plan and the terms of this Agreement. No other Liquidation Trust Beneficiary shall have any approval rights whatsoever in respect of management and operation of the Liquidation Trust.

5.2 Authority of the Liquidation Trust Oversight Committee. The Liquidation Trust Oversight Committee shall have the authority and responsibility to advise, assist, supervise, and direct the Liquidation Trustee in the administration of the Liquidation Trust, to decide whether to prosecute or settle any Retained Causes of Action in good faith and in the best interests of the Liquidation Trust, and shall have the authority to remove the Liquidation Trustee for Cause in accordance with Section 5.1 herein. The Liquidation Trustee shall consult with and provide information to the Liquidation Trust Oversight Committee in accordance with and pursuant to the terms of this Agreement and the WMLP Plan. The Liquidation Trust Oversight Committee shall have the authority to select and engage such professionals as the Liquidation Trust Oversight Committee deems necessary and desirable to assist the Liquidation Trust Oversight Committee in fulfilling its obligations under this Agreement and the WMLP Plan, and the Kemmerer Purchaser shall pay the reasonable and documented fees of such advisors (including on an hourly, contingency, or modified contingency basis) and reimburse such advisors for their reasonable and documented out-of-pocket costs and expenses.

5.3 Regular Meetings of the Liquidation Trust Oversight Committee. Meetings of the Liquidation Trust Oversight Committee are to be held with such frequency and at such place as the Liquidation Trustee and the members of the Liquidation Trust Oversight Committee may determine in their reasonable discretion, but in no event shall such meetings be held less frequently than quarterly.

5.4 Special Meetings of the Liquidation Trust Oversight Committee. Special meetings of the Liquidation Trust Oversight Committee may be held whenever and wherever called for by the Liquidation Trustee or any member of the Liquidation Trust Oversight Committee, subject to reasonable notice.

5.5 Manner of Acting.

(a) A majority of the total number of members of the Liquidation Trust Oversight Committee then in office shall constitute a quorum for the transaction of business at any meeting of the Liquidation Trust Oversight Committee. The affirmative vote of a majority of the members of the Liquidation Trust Oversight Committee present and entitled to vote at a meeting at which a quorum is present shall be the act of the Liquidation Trust Oversight Committee except as otherwise required by law or as provided in this Agreement or the WMLP Plan. Any or all of the members of the Liquidation Trust Oversight Committee may participate in a regular or special meeting by, or conduct the meeting through the use of, conference telephone or similar communications equipment by means of which all Persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. Any member of the Liquidation Trust Oversight Committee participating in a meeting by this means is deemed to be present in person at the meeting. Voting (including on negative notice) may, if approved by the majority of the members at a meeting, be conducted by electronic mail or individual communications by the Liquidation Trustee and each member of the Liquidation Trust Oversight Committee.

(b) Any member of the Liquidation Trust Oversight Committee who is present and entitled to vote at a meeting of the Liquidation Trust Oversight Committee when action is taken is deemed to have assented to the action taken, subject to the requisite vote of the Liquidation Trust Oversight Committee, unless: (i) such member of the Liquidating Oversight Trust Committee objects at the beginning of the meeting (or promptly upon his or her arrival) to holding it or transacting business at the meeting; (ii) his or her dissent or abstention from the action taken is entered in the minutes of the meeting; or (iii) he or she delivers written notice (including by electronic or facsimile transmission) of his or her dissent or abstention to the Liquidation Trust Oversight Committee before its adjournment. The right of dissent or abstention is not available to any member of the Liquidation Trust Oversight Committee who votes in favor of the action taken.

(c) Prior to the taking of a vote on any matter or issue or the taking of any action with respect to any matter or issue, each member of the Liquidation Trust Oversight Committee shall report to the Liquidation Trust Oversight Committee any conflict of interest such member has or may have with respect to the matter or issue at hand and fully disclose the nature of such conflict or potential conflict (including disclosing any and all financial or other pecuniary interests that such member might have with respect to or in connection with such matter or issue, other than solely as a Lender under the Credit Agreement, or as a Liquidation Trust Beneficiary). A member who has or who may have a conflict of interest shall be deemed to be a “conflicted member” who shall not be entitled to vote with respect to such matter or issue (however such member shall be counted for purposes of determining the existence of a quorum and may engage in the Liquidation Trust Oversight Committee’s discussions on such matter or issue); the vote or action with respect to such matter or issue shall be undertaken only by members of the Liquidation Trust Oversight Committee who are not “conflicted members.” Notwithstanding anything to the contrary set forth herein, no member of the Liquidation Trust Oversight Committee shall be deemed to be a “conflicted member” solely as a result of (i) such member’s affiliation with a Person that is a Liquidation Trust Beneficiary or a Lender under the Credit Agreement, or (ii) such member’s affiliation with any Person that is, or is adverse to, a defendant in any of the Retained Causes of Action or in any other action or proceeding.

5.6 Liquidation Trust Oversight Committee’s Action Without a Meeting. Any action required or permitted to be taken by the Liquidation Trust Oversight Committee at a meeting may be taken without a meeting if the action is taken by unanimous written consent of the Liquidation Trust Oversight Committee as evidenced by one or more written consents describing the action taken, signed by all members of the Liquidation Trust Oversight Committee and recorded in the minutes or other transcript of proceedings of the Liquidation Trust Oversight Committee.

5.7 Tenure, Removal, and Replacement of Members of the Liquidation Trust Oversight Committee. The authority of the members of the Liquidation Trust Oversight Committee will be effective as of the Plan Effective Date and will remain and continue in full force and effect until (a) the Liquidation Trust is terminated in accordance with this Agreement or (b) such time as the Liquidation Trust Oversight Committee has no members, at which time the Liquidation Trust Oversight Committee shall be deemed dissolved. The service of the members of the Liquidation Trust Oversight Committee will be subject to the following:

(a) The members of the Liquidation Trust Oversight Committee will serve until Disability (as defined below), death, resignation pursuant to subsection (b) below, or removal pursuant to subsection (c) below;

(b) A member of the Liquidation Trust Oversight Committee may resign at any time by providing a written notice of resignation to the remaining members of the Liquidation Trust Oversight Committee. Such resignation will be effective upon the date received by the Liquidation Trust Oversight Committee or such later date specified in the written notice;

(c) A member of the Liquidation Trust Oversight Committee may be removed by the majority vote of the other members of the Liquidation Trust Oversight Committee, a written resolution of which shall be delivered to the removed Liquidation Trust Oversight Committee member; provided, however, that such removal may only be made for Cause;

(d) In the event of a vacancy on the Liquidation Trust Oversight Committee (whether by removal, Disability, death or resignation), a new member shall be appointed to fill such position by the Person(s) who initially designated the member whose seat has become vacant;

(e) Immediately upon the appointment of any successor member of the Liquidation Trust Oversight Committee, all rights, powers, duties, authority, and privileges of the predecessor member of the Liquidation Trust Oversight Committee hereunder will be vested in and undertaken by the successor member of the Liquidation Trust Oversight Committee without any further act; and the successor member of the Liquidation Trust Oversight Committee will not be liable personally for any act or omission of the predecessor member of the Liquidation Trust Oversight Committee; and

(f) Every successor member of the Liquidation Trust Oversight Committee appointed hereunder shall execute, acknowledge and deliver to the Liquidation Trustee and other members an instrument accepting the appointment under this Agreement and agreeing to be bound thereto, and thereupon the successor member of the Liquidation Trust Oversight Committee without any further act, deed, or conveyance, shall become vested with all rights, powers, trusts, and duties of the retiring member.

(g) For purposes of Sections 5.1, 5.2, 5.7, 10.2 and 10.3 of this Agreement, (i) "Cause" shall mean (a) the Liquidation Trustee's or a member of the Litigation Trust Oversight Committee's gross negligence, willful misconduct, or willful failure to perform any of their duties under the WMLP Plan, the Confirmation Order, or this Agreement, or (b) the Liquidation Trustee's or a member of the Litigation Trust Oversight Committee's misappropriation or embezzlement of any Liquidation Trust Assets or the proceeds thereof; and (ii) "Disability" of the Liquidation Trustee or a member of the Liquidation Trust Oversight Committee shall have occurred if, as a result of such Person's incapacity due to physical or mental illness as determined by a physician selected by the Liquidation Trustee or the member of the Liquidation Trust Oversight Committee, as applicable, and reasonably acceptable to the Liquidation Trust Oversight Committee, the Liquidation Trustee or the member of the Liquidation Trust Oversight Committee shall have been substantially unable to perform his or her duties hereunder for three consecutive months or for an aggregate of 180 days during any period of twelve consecutive months.

5.8 Compensation and Reimbursement of Expenses of the Liquidation Trust Oversight Committee. The Kemmerer Purchaser will reimburse the members of the Liquidation Trust Oversight Committee for all reasonable and documented out-of-pocket expenses incurred by such members in connection with the performance of their respective services hereunder, without duplication, upon demand for payment thereof. All fees and expenses of the members of the Liquidation Trust Oversight Committee shall be paid solely by the Kemmerer Purchaser.

## **ARTICLE 6** **DISTRIBUTIONS**

6.1 Distribution and Reserve of Liquidation Trust Assets. Following the transfer of Liquidation Trust Assets to the Trust, the Trustee shall make continuing efforts on behalf of the Trust to accept, preserve, receive, collect, manage, invest, sell, liquidate, transfer, supervise, prosecute, settle and protect, and distribute, as applicable, all Liquidation Trust Assets, subject to the reserves required under the WMLP Plan, Confirmation Order, and this Agreement including, but not limited to the Liquidation Trust Administration Amount. The Trustee is the exclusive Trustee of the Liquidation Trust Assets, acting under title 11 of the United States Code within the meaning of 31 U.S.C. § 3713(b).

6.2 Distributions. Subject to this Agreement, the Trustee shall cause the Trust to distribute the Trust's net Cash income and net Cash proceeds from the liquidation of the Liquidation Trust Assets to the

Beneficiaries as provided by the WMLP Plan (but in any case, such distributions must occur at least annually), except the Trust may, subject to the WMLP Plan, retain an amount of net income and other Liquidation Trust Assets reasonably necessary to maintain the value of the Liquidation Trust Assets, to meet expenses, claims, and contingent liabilities of the Trust and Trustee, or to make payments to Holders of other Allowed Claims to the extent provided in the WMLP Plan, and retention of such amount may preclude Distributions to Beneficiaries.

6.3 Reserves; Pooling of Reserved Funds. Except as otherwise provided in the WMLP Plan, before making any Distribution or permitting any Distribution to be made, the Trustee shall establish, supplement, and maintain reserves in an amount sufficient to meet any and all expenses and liabilities of the Trust, including attorneys' fees and expenses, and fees payable to the United States Trustee pursuant to 28 U.S.C. § 1930. For the avoidance of doubt, the Trustee may withhold any Distribution pending determination of whether to object to a Disputed Claim. Any such withheld Distribution shall become part of the disputed claims reserve and shall be distributed to the Beneficiary no later than on the first Distribution Date after a decision is made not to object to the pertinent Claim or Interest, or the Claim or Interest becomes Allowed.

6.4 Distributions Net of Reserves and Costs. Distributions shall be made net of reserves in accordance with the WMLP Plan, and also net of the actual and reasonable costs of making the Distributions.

6.5 Method and Timing of Distributions. Distributions to Beneficiaries and holders of other Allowed Claims will be made from the Trust in accordance with the terms of the WMLP Plan and this Agreement.

6.6 No Distributions Pending Allowance. Notwithstanding anything in the WMLP Plan to the contrary, no Distribution will be made with respect to any Disputed Claim until such Claim becomes an Allowed Claim, pursuant to the WMLP Plan.

6.7 Objection Deadline. The Trustee will file all objections to Disputed Claims on or before the Claims Objection Bar Date, as such date may be extended by further order of the Bankruptcy Court.

6.8 Setoff. Nothing contained in the WMLP Plan shall constitute a waiver or release by the Trustee of any right of setoff or recoupment that the WMLP Debtors or the Trustee may have against the Holder of any Claim.

6.9 De Minimis Distributions. Notwithstanding any other provision of the WMLP Plan or this Agreement, the Trustee shall have no obligation to make a Distribution if the amount to be distributed to a holder of an Allowed Claim would be \$250 or less.

6.10 Withholding from Distributions. The Trustee shall comply with all tax withholding and reporting requirements imposed on the Trust by any governmental requirement. The Trustee (or Disbursing Agent), in its discretion, may cause the Trust to withhold from amounts distributable from the Trust to any Beneficiary or other Holder any and all amounts as may be sufficient to pay the amount of any tax or other charge that has been or might be reasonably assessed or imposed by any law, regulation, rule, ruling, directive, or other governmental requirement on distributions to such Beneficiary or other Holder or on the Trust with respect to the amount to be distributed to such Beneficiary or other Holder. The Trustee shall determine such amount to be withheld by the Trust in its sole, reasonable discretion.

6.11 Tax Identification Numbers. As more fully set forth in Section V.H of the WMLP Plan, the Trustee (or Disbursing Agent) may require any Beneficiary and other Holder to provide it with an executed Form W-9, Form W-8, or other appropriate tax form or documentation as a condition precedent to being sent a Distribution. If a Beneficiary or other Holder does not timely provide an executed Form W-9, Form W-8, or other tax form or documentation within the time period specified in a notice from the Trustee or Disbursing Agent, or such later time period agreed to by the Trustee or Disbursing Agent in writing, then the Trustee or Disbursing Agent may (a) make a Distribution net of any applicable withholding or

(b) determine that such Beneficiary or other Holder shall be deemed to have forfeited the right to receive any Distribution, as further set forth in the WMLP Plan.

6.12 Unclaimed and Undeliverable Distributions. If any Distribution to a Beneficiary or other Holder is returned to the Trustee or Disbursing Agent, as applicable, as undeliverable or is otherwise unclaimed, no further Distributions to such Beneficiary or other Holder shall be made unless and until the Trustee or Disbursing Agent is notified by written certification of such Beneficiary's or other Holder's then-current address. Subject to Section V.D of the WMLP Plan, Distributions returned to the Trustee or a Disbursing Agent, or otherwise undeliverable will remain in the possession of the applicable Disbursing Agent until such time as a Distribution becomes deliverable. Subject to Section V.D.2.c of the WMLP Plan, while remaining in the possession of the applicable Disbursing Agent, undeliverable Distributions will be maintained in the applicable Trust Account for the distribution to other Claimants.

6.13 No Responsibility to Attempt to Locate Beneficiaries or other Holders. The Trustee may, in its sole discretion, attempt to determine a Beneficiary's or other Holder's current address or otherwise locate a Beneficiary or other Holder, but nothing in this Agreement or the WMLP Plan shall require the Trustee to do so.

6.14 Disallowance of Claims; Cancellation of Corresponding Beneficial Interests. All Claims in respect of undeliverable or unclaimed Distributions that pursuant to Sections V.D and V.J of the WMLP Plan have become unclaimed property under § 347(b) of the Bankruptcy Code shall be deemed disallowed and expunged, and the corresponding beneficial interests in the Trust of the Beneficiaries holding such disallowed Claims shall be deemed canceled. The Holder of any such disallowed Claim shall no longer have any right, claim, or interest in or to any Distributions in respect of such disallowed Claim. The holder of any such disallowed Claim is forever barred, estopped, and enjoined from receiving any Distributions under the Trust Agreement and from asserting such disallowed Claim against the Trust, Trustee, or the WMLP Debtors' estates.

6.15 Inapplicability of Unclaimed Property or Escheat Laws. Unclaimed property held by the Trust shall not be subject to the unclaimed property or escheat laws of the United States, any state, or any local governmental unit.

6.16 Voided Checks; Request for Reissuance. Distribution checks issued to Beneficiaries or other Holders shall be null and void if not negotiated within 120 days after the date of issuance thereof. Requests for reissuance of any check shall be made in writing directly to the Trustee (or Disbursing Agent) by the Beneficiary or other Holder to which or to whom such check originally was issued. All such requests shall be made promptly and in time for the check to be reissued and cashed before the Final Distribution Date. Any claims in respect of voided checks shall be discharged and forever barred and such unclaimed Distribution shall be re-allocated as set forth in Section V.D.2 of the WMLP Plan, notwithstanding any federal or state escheat laws to the contrary.

6.17 Conflicting Claims. If any conflicting claims or demands are made or asserted with respect to the beneficial interest of a Beneficiary under this Agreement, or if there is any disagreement between the assignees, transferees, heirs, representatives, or legatees succeeding to all or a part of such an interest resulting in adverse claims or demands being made in connection with such interest, then, in any of such events, the Trustee shall be entitled, in its sole discretion, to refuse to comply with any such conflicting claims or demands.

(a) The Trustee may elect to cause the Trust to make no payment or distribution with respect to the beneficial interest subject to the conflicting claims or demand, or any part thereof, and to refer such conflicting claims or demands to the Bankruptcy Court, which shall have exclusive jurisdiction over resolution of such conflicting claims or demands. Neither the Trust nor the Trustee shall be or become liable to any of such parties for their refusal to comply with any such conflicting claims or demands, nor shall the Trust or Trustee be liable for interest on any funds which may be so withheld.

(b) The Trustee shall be entitled to refuse to act until either (i) the rights of the adverse claimants have been adjudicated by a Final Order of the Bankruptcy Court or (ii) all differences have been resolved by a valid written agreement among all such parties to the satisfaction of the Trustee, which agreement shall include a complete release of the Trust and Trustee. Until the Trustee receives written notice that one of the conditions of the preceding sentence is met, the Trustee may deem and treat as the absolute owner under this Agreement of the beneficial interest in the Trust the Beneficiary identified as the owner of that interest in the books and records maintained by the Trustee. The Trustee may deem and treat such Beneficiary as the absolute owner for purposes of receiving Distributions and any payments on account thereof for federal and state income tax purposes, and for all other purposes whatsoever.

(c) In acting or refraining from acting under and in accordance with Sections 6.14-6.16 of this Agreement, the Trustee shall be fully protected and incur no liability to any purported claimant or any other Person pursuant to this Agreement.

6.18 Priority of Expenses of Trust. Except as otherwise provided in the WMLP Plan with respect to Distributions on account of the Credit Agreement Claims, the Trust must pay all of its expenses before making Distributions.

## **ARTICLE 7** **BENEFICIARIES**

7.1 Interest Beneficial Only. The Trust is created for the benefit of the Beneficiaries. The Beneficiaries shall each have an undivided beneficial interest in the assets of the Trust (each a "Beneficial Interest"). All distributions to Beneficiaries shall be made in accordance with the terms of the WMLP Plan, Confirmation Order, and this Agreement. The ownership of a Beneficial Interest in the Trust shall not entitle any Beneficiary to any title or direct ownership in or to the Liquidation Trust Assets or to any right to call for a partition or division of such assets or to require an accounting.

7.2 Ownership of Beneficial Interests Hereunder. Each Beneficiary shall own a Beneficial Interest herein which shall, subject to Article 6 herein and the WMLP Plan, be entitled to a Distribution in the amounts, and at the times, set forth in the WMLP Plan. Each Beneficiary shall take and hold its Beneficial Interest subject to the terms of this Agreement and the WMLP Plan.

7.3 Evidence of Beneficial Interest. Ownership of a Beneficial Interest in the Liquidation Trust Assets shall not be evidenced by any certificate, security, or receipt or in any other form or manner whatsoever, except as maintained on the books and records of the Trust by the Trustee. No Beneficiary shall have legal title to any part of the Trust Assets.

7.4 No Right to Accounting. Neither the Beneficiaries nor their successors, assigns, creditors, or any other Person or Entity shall have any right to an accounting by the Trustee, and the Trustee shall not be obligated to provide any accounting to any Person or Entity. Nothing in this Agreement is intended to require the Trustee at any time or for any purpose to file any accounting or seek approval of any court with respect to the administration of the Trust or as a condition for making any advance, payment, or distribution out of proceeds of Liquidation Trust Assets.

7.5 No Standing. Except as expressly provided in this Agreement, a Beneficiary shall not have standing to direct or to seek to direct the Trust or Trustee to do or not to do any act, or to institute any action or proceeding at law or in equity, against any Person or Entity upon or with respect to the Liquidation Trust Assets.

7.6 Requirement of Undertaking. The Trustee may request the Bankruptcy Court to require, in any suit for the enforcement of any right or remedy under this Agreement, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, including reasonable attorneys' fees, against any party litigant in such suit; provided, however, that the provisions of this Section 7.6 shall not apply to any suit by the Trustee.

7.7 Limitation on Transferability. It is understood and agreed that the Beneficial Interests herein shall be non-transferable and non-assignable during the term of this Agreement except pursuant to the laws of descent and distribution or otherwise by operation of law. An assignment by operation of law shall not be effective until appropriate notification and proof thereof is submitted to the Trustee, and the Trustee may continue to cause the Trust to pay all amounts to or for the benefit of the assigning Beneficiaries until receipt of proper notification and proof of assignment by operation of law. The Trustee may rely upon such proof without the requirement of any further investigation.

7.8 Exemption from Registration. The rights of the Beneficiaries arising under this Agreement may be deemed “securities” under applicable law. However, such rights have not been defined as “securities” under the WMLP Plan because (a) the parties hereto intend that such rights shall not be securities and (b) if the rights arising under the Agreement in favor of the Beneficiaries are deemed to be “securities,” the exemption from registration under § 1145 of the Bankruptcy Code is intended to be applicable to such securities. No party to this Agreement shall make a contrary or different contention.

## **ARTICLE 8** **THIRD PARTY RIGHTS AND LIMITATION OF LIABILITY**

8.1 Parties Dealing With the Trustee. In the absence of actual knowledge to the contrary, any Person dealing with the Trust or the Trustee shall be entitled to rely on the authority of the Trustee or any of the Trustee’s agents to act in connection with the Liquidation Trust Assets. There is no obligation of any Person dealing with the Trustee to inquire into the validity or expediency or propriety of any transaction by the Trustee or any agent of the Trustee.

8.2 Limitation of Trustee’s and Liquidation Trust Oversight Committee Members’ Liability. In exercising the rights granted herein, the Trustee and the members of the Liquidation Trust Oversight Committee shall exercise their best judgment, to the end that the affairs of the Trust shall be properly managed and the interests of all of the Beneficiaries safeguarded. Notwithstanding anything herein to the contrary, neither the Trustee nor the members of the Liquidation Trust Oversight Committee, nor their (or their members’) respective firms, companies, affiliates, partners, officers, directors, members, employees, professionals, advisors, attorneys, financial advisors, investment bankers, disbursing agents, or agents, and any of such Person’s successors and assigns shall incur any responsibility or liability by reason of any error of law or fact or of any matter or thing done or suffered or omitted to be done under or in connection with this Agreement, whether sounding in tort, contract, or otherwise, except for gross negligence or willful misconduct that is found by a Final Order of a court of competent jurisdiction to be the direct and primary cause of loss, liability, damage, or expense suffered by the Trust. In no event shall the Trustee nor any member of the Liquidation Trust Oversight Committee be liable for indirect, punitive, special, incidental or consequential damage or loss (including but not limited to lost profits) whatsoever, even if the Trustee or the member of the Liquidation Trust Oversight Committee has been informed of the likelihood of such loss or damages and regardless of the form of action. Without limiting the foregoing, the Trustee and the members of the Liquidation Trust Oversight Committee shall be entitled to the benefits of the limitation of liability and exculpation provisions set forth in the WMLP Plan and Confirmation Order, including, but not limited to those set forth in Article VII of the WMLP Plan.

8.3 No Liability for Acts of Other Persons. None of the Persons identified in the immediately preceding Section 8.2 of this Agreement shall be liable for the act or omission of any other Person identified in that section.

8.4 No Liability for Acts of Predecessors. No successor Trustee shall be in any way responsible for the acts or omissions of any Trustee in office prior to the date on which such successor becomes the Trustee, unless a successor Trustee expressly assumes such responsibility.

8.5 No Liability for Good Faith Error of Judgment. Neither the Trustee nor any member of the Liquidation Trust Oversight Committee shall be liable for any error of judgment made in good faith, unless

it shall be finally determined by a Final Order of a court of competent jurisdiction that the Trustee or member of the Litigation Trust Oversight Committee was grossly negligent in ascertaining the pertinent facts.

8.6 Reliance on Documents. Except as otherwise provided herein, the Trustee and members of the Liquidation Trust Oversight Committee may rely 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.

8.7 No Liability For Acts Approved by Bankruptcy Court. The Trustee shall have the right at any time to seek instructions from the Bankruptcy Court concerning the administration or disposition of the Trust and the Claims required to be administered by the Trust. The Trustee and members of the Liquidation Trust Oversight Committee shall not be liable for any act or omission that has been approved by the Bankruptcy Court, and all such actions or omissions shall conclusively be deemed not to constitute fraud, gross negligence, or willful misconduct.

8.8 No Personal Obligation for Trust Liabilities. Persons dealing with the Trustee shall have recourse only to the Liquidation Trust Assets to satisfy any liability incurred by the Trustee to any such Person in carrying out the terms of this Agreement, and the Trustee and members of the Liquidation Trust Oversight Committee shall have no personal, individual obligation to satisfy any such liability.

8.9 Indemnification. Without limiting any provision of the WMLP Plan, the Trustee and members of the Liquidation Trust Oversight Committee, and their (or their members') firms, companies, affiliates, partners, officers, directors, members, employees, professionals, advisors, attorneys, financial advisors, investment bankers, disbursing agents, or agents and any of such parties' successors and assigns (collectively, the "Indemnified Parties" and each, an "Indemnified Party") shall, to the fullest extent permitted by applicable law, be defended, held harmless, and indemnified by the Trust from time to time and receive reimbursement from and against any and all loss, liability, expense (including counsel fees), or damage of any kind, type or nature, whether sounding in tort, contract, or otherwise, that the Indemnified Parties may incur or sustain in connection with the exercise or performance of any of the Trust's, the Trustee's, or the Liquidation Trust Oversight Committee's powers and duties under this Agreement or in rendering services by the Indemnified Party to the Trust or Trustee (the "Indemnified Conduct"), including, without limitation, the costs of counsel or others in investigating, preparing, defending, or settling any action or claim (whether or not litigation has been initiated against the Indemnified Party) or in enforcing this Agreement (including its indemnification provisions), except if such loss, liability, expense, or damage is finally determined by a Final Order of a court of competent jurisdiction to result directly and primarily from the fraud, gross negligence, or willful misconduct of the Indemnified Party asserting this provision.

8.10 Expense of Trust; Limitation on Source of Payment of Indemnification. All indemnification liabilities of the Trust under Section 8.9 shall be an expense of the Trust. Any indemnification shall be the sole responsibility of the Trust and payable solely from the Liquidation Trust Administration Amount (to the extent such indemnification liabilities have not been deemed to be Assumed Liabilities (as defined in the Kemmerer APA) in accordance with the Kemmerer APA) and not from any other Liquidation Trust Assets. The Trustee shall not be personally liable for the payment of any Trust expense or claim or other liability of the Trust, and no Person shall look to the Trustee or other Indemnified Parties personally for the payment of any such expense or liability.

8.11 Procedure for Current Payment of Indemnified Expenses; Undertaking to Repay. The Trust shall reasonably promptly pay an Indemnified Party all amounts subject to indemnification under Section 8.9 on submission of invoices for such amounts by the Indemnified Party. All invoices for indemnification shall be subject to the approval of the Trustee. By accepting any indemnification payment, the Indemnified Party undertakes to repay such amount promptly if it is determined that the Indemnified Party is not entitled to be indemnified under this Agreement. Any dispute arising out of Sections 8.9-8.11 shall be heard and finally determined by the Bankruptcy Court.

8.12 No Implied Obligations. The Trustee and members of the Liquidation Trust Oversight Committee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and no implied covenants or obligations shall be read into this Agreement against the Trustee or the members of the Liquidation Trust Oversight Committee.

8.13 Confirmation of Survival of Provisions. Without limitation in any way of any provision of this Agreement, the provisions of this Article 8 shall survive the death, dissolution, liquidation, resignation, replacement, or removal, as may be applicable, of the Trustee or members of the Liquidation Trust Oversight Committee, or the termination of the Trust or this Agreement, and shall inure to the benefit of the Trustee's and the Indemnified Parties' heirs and assigns.

## **ARTICLE 9** **TAX MATTERS**

9.1 Tax Treatment of Trust. Pursuant to and in accordance with the WMLP Plan, for all U.S. federal income tax purposes, the WMLP Debtors, the Beneficiaries, the Trustee, and the Trust shall treat the Trust as a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d) and IRS Revenue Procedure 94-45, 1994-2 C.B. 124 to the extent permitted under applicable law. For U.S. federal income tax purposes, the transfer of the Liquidation Trust Assets by the WMLP Debtors to the Trust shall be treated (a) in part as the transfer of assets by the WMLP Debtors to the Beneficiaries, subject to any liabilities of the WMLP Debtors or the Liquidation Trust payable from the proceeds of such assets, followed by the transfer of such assets (subject to such liabilities) by such Beneficiaries in exchange for the beneficial interests in the Liquidation Trust, and (b) in part as the transfer of assets by the WMLP Debtors to one or more disputed claims reserves.

9.2 Annual Reporting and Filing Requirements. Pursuant to and in accordance with the terms of the WMLP Plan and this Agreement, the Trustee will file all Tax returns and distribute beneficiary statements on a basis consistent with the treatment of the Trust in part as a liquidating trust (and grantor trust pursuant to Treasury Regulation section 1.67-1(a)) and in part as one or more disputed claims reserves taxed as "disputed ownership fund" ("DOF") within the meaning of Treasury Regulation section 1.468B-9 for federal income tax purposes, and will pay all Taxes owed from Liquidation Trust Assets.

9.3 Tax Treatment of Reserves for Disputed Claims. The Trust shall comply with all U.S. federal and state tax reporting and tax compliance requirements of the DOF, including but not limited to the filing of a separate U.S. federal tax return for the DOF and the payment of U.S. federal and/or state income tax due. The Trustee shall be the administrator of any DOF within the meaning of Treasury Regulation section 1.468B-9(b)(2).

9.4 Valuation of Liquidation Trust Assets. As soon as practicable after the Plan Effective Date, the Trustee, in good faith consultation with the Beneficiaries, shall make a good faith determination of the fair market value of the Liquidation Trust Assets as of the Plan Effective Date. This valuation, once approved in writing by a majority of the Beneficiaries, shall be used consistently by all parties (including the WMLP Debtors, the Trustee, and the Beneficiaries) for all U.S. federal income tax purposes. The Trustee shall establish appropriate means to apprise the Beneficiaries of such valuation.

9.5 Section 1146(a) Exemption. The Parties intend that, pursuant to section 1146(a) of the Bankruptcy Code, the execution and implementation of this Agreement, including the creation of the Trust and any transfers of the Liquidation Trust Assets to, by or from the Trust, will not be subject to any stamp, real estate transfer, mortgage recording or similar tax.

9.6 Section 505 Determination. The Trustee may request an expedited determination of any tax matter of the Debtors, the Trust or any disputed claims reserve under section 505 of the Bankruptcy Code for which such determination may be requested thereunder.

**ARTICLE 10**

**SELECTION, REMOVAL, REPLACEMENT, AND COMPENSATION OF TRUSTEE**

10.1 Initial Trustee. The Trustee has been selected by the WMLP Debtors and the Beneficiaries, in consultation with the Creditors' Committee, and is appointed effective as of the Plan Effective Date. The initial trustee shall be the Trustee.

10.2 Term of Service. The Trustee shall serve until (a) the completion of the administration of the Liquidation Trust Assets and the Trust, including the winding up of the Trust, in accordance with this Agreement and the WMLP Plan; (b) termination of the Trust in accordance with the terms of this Agreement and the WMLP Plan; or (c) the Trustee's resignation, death, Disability, incapacity or removal. In the event the Trustee's appointment terminates by reason of death, Disability, dissolution, liquidation, resignation or removal, the Trustee shall be immediately compensated for all reasonable fees and expenses accrued through the effective date of termination, whether or not previously invoiced. The provisions of Article 8 of this Agreement shall survive the resignation or removal of any Trustee.

10.3 Removal of Trustee. Any Person serving as Trustee may be removed at any time for Cause. Any party in interest, on notice and hearing before the Bankruptcy Court, may seek removal of the Trustee for Cause. If a Trustee is removed for Cause, such Trustee shall not be entitled to any accrued but unpaid fees, reimbursements, or other compensation under this Agreement or otherwise.

10.4 Resignation of Trustee. The Trustee may resign at any time on written notice to the WMLP Debtors, the Beneficiaries, the Creditors' Committee, the United States Trustee, and the Bankruptcy Court. The resignation shall be effective on the later of (a) the date specified in the notice of resignation and (b) the date that is 30 days after the date such notice is filed with the Bankruptcy Court and served on the WMLP Debtors, the Beneficiaries, the Creditors' Committee, and the United States Trustee. In the event of a resignation, the resigning Trustee shall render to the WMLP Debtors, the Beneficiaries, the Creditors' Committee, and the United States Trustee a full and complete accounting of monies and assets received, disbursed, and held during the term of office of that Trustee.

10.5 Appointment of Successor Trustee. Upon the resignation, death, incapacity, or removal of a Trustee, a successor Trustee shall be appointed pursuant to Section III.B.3 of the WMLP Plan, which successor trustee shall be acceptable to the WMLP Debtors and Beneficiaries in consultation with the Creditors' Committee. In the event no party in interest seeks the appointment of a successor Trustee, the Bankruptcy Court may do so on its own motion. Any successor Trustee so appointed shall consent to and accept its appointment as successor Trustee, which may be done by e-mail or through acquiescence in not objecting to a motion for approval of appointment as successor Trustee. Subject to a final accounting, such Trustee shall be entitled to all accrued and unpaid fees, reimbursement, and other compensation, to the extent incurred or arising or relating to events occurring before such removal, and to any out-of-pocket expenses reasonably incurred in connection with the transfer of all powers and duties, and all rights to any successor Trustee.

10.6 Powers and Duties of Successor Trustee. A successor Trustee shall have all the rights, privileges, powers, and duties of the predecessor Trustee under this Agreement, the WMLP Plan, and Confirmation Order.

10.7 Trust Continuance. The resignation, death, incapacitation, dissolution, liquidation, or removal of the Trustee shall not terminate the Trust or revoke any existing agency created pursuant to this Agreement or invalidate any action theretofore taken by the Trustee.

10.8 Compensation of Trustee and Costs of Administration. The Trustee shall receive compensation of \$475 per hour. Such compensation is subject to the terms of the WMLP Plan and shall be a charge against and paid out of the Liquidation Trust Administration Amount (to the extent such expense has not been deemed to be an Assumed Liability (as defined in the Kemmerer APA) in accordance with the Kemmerer APA). Except as otherwise provided in the WMLP Plan, all costs, expenses, and obligations

incurred by the Trustee (or professionals who may be employed by the Trustee in administering the Trust, in carrying out their other responsibilities under this Agreement, or in any manner connected, incidental, or related thereto) shall be paid by the Trust solely from the Liquidation Trust Administration Amount (to the extent such expenses have not been deemed to be Assumed Liabilities (as defined in the Kemmerer APA) in accordance with the Kemmerer APA), prior to any Distribution to the Beneficiaries.

10.9 Appointment of Supplemental Trustee. Subject to this Agreement, if any of the Liquidation Trust Assets are situated in any state or other jurisdiction in which the Trustee is not qualified to act as trustee, the Trustee shall nominate and appoint a Person duly qualified to act as trustee (the “Supplemental Trustee”) in such state or jurisdiction and require from each such Supplemental Trustee such security as may be designated by the Trustee in its discretion. The Trustee may confer upon such Supplemental Trustee all of the rights, powers, privileges and duties of the Trustee hereunder, subject to the conditions and limitations of this Agreement and the WMLP Plan, except as modified or limited by the laws of the applicable state or other jurisdiction (in which case, the laws of the state or other jurisdiction in which such Supplemental Trustee is acting shall prevail to the extent necessary). The Trustee shall require such Supplemental Trustee to be answerable to the Trustee for all monies, assets and other property that may be received in connection with the administration of all property. Subject to this Agreement, the Trustee may remove such Supplemental Trustee, with or without cause, and appoint a successor Supplemental Trustee at any time by executing a written instrument declaring such Supplemental Trustee removed from office and specifying the effective date and time of removal.

## **ARTICLE 11** **DURATION OF TRUST**

11.1 Duration. Once the Trust becomes effective upon the Plan Effective Date of the WMLP Plan, the Trust and this Agreement shall remain and continue in full force and effect until the Trust is terminated.

11.2 Termination On Payment of Trust Expenses and Distribution of Liquidation Trust Assets. Upon the payment of all costs, expenses, and obligations incurred in connection with administering the Trust, and the Distribution of all Liquidation Trust Assets in accordance with the provisions of the WMLP Plan, the Confirmation Order, and this Agreement, the Trust shall terminate and the Trustee shall have no further responsibility in connection therewith except as may be required to effectuate such termination under relevant law.

11.3 Termination After Five Years. If the Trust has not been previously terminated pursuant to this Agreement, on the fifth anniversary of the Plan Effective Date, and unless the Trust term has been extended in accordance with this section, the Trustee shall distribute all of the Liquidation Trust Assets to the Beneficiaries in accordance with the WMLP Plan, and immediately thereafter the Trust shall terminate and the Trustee shall have no further responsibility in connection therewith except to the limited extent set forth in this Agreement. At any time within six months of such termination, the Bankruptcy Court, upon motion by the Trustee, any Beneficiary, or on its own accord, may extend the term of the Trust if such extension is determined to be in the best interests of the Beneficiaries; provided that such extension or extensions shall not exceed three years after the initial termination date, unless the Trustee receives a favorable ruling from the IRS, or an opinion of counsel, that such extension will not adversely affect the status of the Trust as a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d) and IRS Revenue Procedure 94-45, 1994-2 C.B. 124.

11.4 No Termination by Beneficiaries. The Trust may not be terminated at any time by any of the Beneficiaries.

11.5 Continuance of Trust for Winding Up; Discharge and Release of Trustee. After the termination of the Trust and solely for the purpose of liquidating and winding up the affairs of the Trust, the Trustee shall continue to act as such until all responsibilities have been fully performed. Except as

otherwise specifically provided herein, upon the distribution of the Liquidation Trust Assets, including all excess reserves, the Trustee shall be deemed discharged and have no further duties or obligations hereunder. Upon a motion by the Trustee, the Bankruptcy Court may enter an order relieving the Trustee, its member, employees, professionals, and agents of any further duties, discharging and releasing the Trustee from all liability related to the Trust, and releasing the Trustee's bond, if any.

**ARTICLE 12**  
**MISCELLANEOUS**

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

12.2 Privilege. The Trust and the Trustee shall each be a "representative" of the estates of the WMLP Debtors, and the Trustee shall be a trustee of the Liquidation Trust Assets for purpose of 31 U.S.C. § 3713(b) and 26 U.S.C. 6012(b)(3), and as such, the Trustee succeeds to all of the rights, powers, and obligations of a trustee in bankruptcy with respect to collecting, maintaining, and liquidating the Liquidation Trust Assets. Without limiting other such rights, powers, and obligations, as of the Plan Effective Date, the WMLP Debtors shall transfer, and will be deemed to have irrevocably transferred to the Trust, and shall vest in the Trust, the Trustee, and all of their professionals, all of the WMLP Debtors' evidentiary privileges, including, without limitation, the attorney-client privilege, the work product privilege, and other privileges and immunities that they possess; provided that the Trust's receipt of any privileged information, documents, communications, or books and records shall not operate as a waiver of any privileges or protections possessed or retained by the WMLP Debtors.

12.3 Notices. All notices to be given to Beneficiaries may be given by ordinary mail, or may be delivered personally, to the Holders at the addresses appearing on the books kept by the Trustee. Any notice or other communication which may be or is required to be given, served, or sent to the Trustee shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, or transmitted by hand delivery or facsimile (if receipt is confirmed) addressed as follows:

Gerald A. Tywoniuk  
5150 E. Pacific Coast Highway, Suite 200  
Long Beach, California 90804  
GerryT@gtCFOservices.com

or to such other address as may from time to time be provided in written notice by the Trustee.

12.4 Governing Law. This Agreement 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.

12.5 Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the Parties, and their respective successors and assigns.

12.6 Particular Words. Reference in this Agreement to any Section or Article is, unless otherwise specified, to that such Section or Article under this Agreement. The words "hereof," "herein," and similar terms shall refer to this Agreement and not to any particular Section or Article of this Agreement.

12.7 Execution. All funds in the Trust shall be deemed *in custodia legis* until such times as the funds have actually been paid to or for the benefit of a Beneficiary, and no Beneficiary or any other Person can execute upon, garnish or attach the Liquidation Trust Assets or the Trustee in any manner or compel payment from the Trust except by Final Order of the Bankruptcy Court. Payments will be solely governed by the WMLP Plan, the Confirmation Order, and this Agreement.

12.8 Amendment. This Agreement may be amended by written agreement of the Trustee and the WMLP Debtors, or by order of the Bankruptcy Court.

12.9 No Waiver. No failure or delay of any party to exercise any right or remedy pursuant to this Agreement shall affect such right or remedy or constitute a waiver thereof.

12.10 No Relationship Created. Nothing contained herein shall be construed to constitute any relationship created by this Agreement as an association, partnership, or joint venture of any kind.

12.11 Books and Records.

(a) As soon as practical after the Plan Effective Date, the WMLP Debtors shall transfer to the Trust all of the books and records of the WMLP Debtors in their possession relevant to implementation of the WMLP Plan, and shall instruct any third parties or professionals possessing such books and records (including computer generated or computer maintained books, records and data, legal and accounting files maintained by any professional of the WMLP Debtors and other books and records maintained by or in the possession of third parties) to the extent reasonably necessary to the Trustee's performance of duties hereunder.

(b) The Trustee will maintain reasonably good and sufficient books and records with respect to the matters contained herein. The Trustee may, without approval from the Bankruptcy Court, destroy any documents that the Trustee reasonably believes are no longer required to effectuate the terms and conditions of the WMLP Plan.

12.12 U.S. Trustee Fees. After the Plan Effective Date, the Trustee shall pay any statutory fees due for the post-Plan Effective Date period pursuant to 28 U.S.C. § 1930(a)(6) and such fees shall be paid until entry of a final decree or an order converting or dismissing the Chapter 11 Cases.

12.13 Severability. If any term, provision, covenant, or restriction contained in this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable, or against regulatory policy, the remainder of the terms, provisions, covenants and restrictions contained in this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

12.14 Further Assurances. The Parties agree to execute and deliver all such documents and notices and to take all such further actions as may be reasonably required from time to time to carry out the intent and purposes and provide for the full implementation of this Agreement and the pertinent provisions of the WMLP Plan, and to consummate the transactions contemplated hereby.

12.15 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

12.16 Jurisdiction. The Bankruptcy Court shall have jurisdiction of the Trust, Trustee, and Liquidation Trust Assets, including, without limitation, the determination of all disputes arising out of or related to administration of the Trust. The Bankruptcy Court shall have exclusive jurisdiction and venue to hear and finally determine all matters among the Parties arising out of or related to this Agreement or the administration of the Trust.

IN WITNESS WHEREOF, the Parties have or are deemed to have executed and acknowledged this Agreement or caused it to be executed and acknowledged on their behalf by their duly authorized officers as of the day and year first written above.

*(signatures on following page)*

**WMLP DEBTORS:**

**WESTMORELAND RESOURCES GP, LLC**

By \_\_\_\_\_

**WESTMORELAND RESOURCE PARTNERS, LP**

By \_\_\_\_\_

**WESTMORELAND KEMMERER, LLC**

By \_\_\_\_\_

**WESTMORELAND KEMMERER FEE COAL HOLDINGS, LLC**

By \_\_\_\_\_

**OXFORD MINING COMPANY, LLC**

By \_\_\_\_\_

**HARRISON RESOURCES, LLC**

By \_\_\_\_\_

**OXFORD MINING COMPANY-KENTUCKY, LLC**

By \_\_\_\_\_

**DARON COAL COMPANY, LLC**

By \_\_\_\_\_

**OXFORD CONESVILLE, LLC**

By \_\_\_\_\_

**LIQUIDATION TRUSTEE:**

By \_\_\_\_\_

gtCFOServices LLC  
Gerald A. Tywoniuk, Its Sole Member

**Exhibit I.A.86**

**Liquidation Trust Administration Budget**

**WMLP Liquidation Trust Administration Budget**

In Dollars

<b>Tasks</b>	<b>Amount</b>
US Trustee Fees	\$ 450,000
Human Resources Related	187,000
Claims & Case Closure	305,000
Tax Related Work	520,000
IT/Facility	95,000
Legal Support	250,000
Plan Administration	468,000
	<b>\$ 2,275,000</b>