

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

In re:)	Chapter 11
)	
LINC USA GP, <i>et al.</i> ¹)	Case No. 16-32689 (DRJ)
)	
Debtors.)	(Jointly Administered)

**NOTICE OF FILING AMENDED CREDITOR TRUST AGREEMENT AS PART OF
PLAN SUPPLEMENT IN SUPPORT OF DEBTORS’ JOINT PLAN OF LIQUIDATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE THAT Linc USA GP, Linc Energy Finance (USA), Inc., Linc Energy Operations, Inc., Linc Energy Resources, Inc., Linc Gulf Coast Petroleum, Inc., Linc Energy Petroleum (Wyoming), Inc., Paen Insula Holdings, LLC, Linc Alaska Resources, LLC, and Linc Energy Petroleum (Louisiana), LLC (collectively, the “Debtors”) hereby file the attached amended Creditor Trust Agreement (attached as **Exhibit A**), which amends the Creditor Trust Agreement filed as part of the Plan Supplement (Dkt. No. 510, the “Plan Supplement”) to the Debtors’ *Joint Plan of Liquidation under Chapter 11 of the Bankruptcy Code* (and as may be amended, modified, or supplemented from time to time, the “Plan”).²

PLEASE TAKE FURTHER NOTICE THAT a redline of the Creditor Trust Agreement showing changes from the original version filed at docket number 510, to the amended version filed herewith is attached as **Exhibit B**.

PLEASE TAKE FURTHER NOTICE THAT a combined hearing to consider whether the disclosure statement for the Plan contains adequate information and whether confirmation of the Plan (and in conjunction therewith, approval of the Plan Supplement) is appropriate will be held on **February 13, 2017, at 3:00 p.m. (prevailing Central Time)**, before the Honorable David R. Jones, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of Texas, Houston Division, Courtroom 400, 515 Rusk, Houston, TX 77002. The hearing may be adjourned from time to time without further notice to creditors or other parties in interest, other than by announcement of such adjournment in open court.

¹ The debtors in possession in these chapter cases, along with the last four digits of each debtor in possession’s federal tax identification number, are: Linc Energy Finance (USA), Inc. (6684); Linc USA GP (5234); Linc Energy Resources, Inc. (9613); Linc Gulf Coast Petroleum, Inc. (6790); Linc Energy Petroleum (Louisiana), LLC (1074); Linc Alaska Resources, LLC (2362); Paen Insula Holdings, LLC (1681); Linc Energy Petroleum (Wyoming), Inc. (9859); Diasu Holdings, LLC (9626); Diasu Oil & Gas Company, Inc. (8926); and Linc Energy Operations, Inc. (5806).

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Plan.



PLEASE TAKE FURTHER NOTICE THAT the documents contained in the Plan Supplement are not final, are subject to ongoing review and change, and remain subject to approval in accordance with the Plan. The Debtors reserve the right to alter, amend, modify or supplement any of the documents contained in the Plan Supplement at any time up to and including the Effective Date of the Plan.

BRACEWELL LLP

By: */s/ Jason G. Cohen* _____

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**COUNSEL FOR THE DEBTORS AND
DEBTORS IN POSSESSION**

EXHIBIT A

CREDITOR TRUST AGREEMENT

This Creditor Trust Agreement (the “Trust Agreement”), by and among Linc USA GP, Linc Energy Finance (USA), Inc., Linc Energy Operations, Inc., Linc Energy Resources, Inc., Linc Gulf Coast Petroleum, Inc., Linc Energy Petroleum (Wyoming), Inc., Paen Insula Holdings, LLC, Linc Alaska Resources, LLC, and Linc Energy Petroleum (Louisiana), LLC (collectively, the “Debtors”) in the chapter 11 cases (the “Chapter 11 Cases”) of the Debtors pending before the United States Bankruptcy Court for the Southern District of Texas as Case Nos. 16-32689 (DRJ) through 16-32695 (DRJ) and Nos. 16-32698 (DRJ) through 16-32699 (DRJ), jointly administered for procedural purposes only under the lead Case No. 16-32689 (DRJ), and Alexandre Zyngier of Batuta Capital Advisors LLC, as trustee of the Creditor Trust (“Trustee”), is executed in connection with and as part of the Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code dated January 10, 2017, as the same may be amended, modified or supplemented, including by and as confirmed by the Confirmation Order (the “Plan”), which provides for the establishment of a liquidating trust evidenced hereby (the “Creditor Trust”). Except with respect to the terms defined herein, all capitalized terms contained herein shall have the meanings ascribed to them in the Plan.

RECITALS

WHEREAS, the Creditor Trust is created pursuant to, and to effectuate, the Plan;

WHEREAS, the Trustee has been appointed by the Ad Hoc Noteholder Group pursuant to the Plan;

WHEREAS, on February __, 2017, the Bankruptcy Court entered the Confirmation Order;

WHEREAS, the Creditor Trust is created on behalf of, and for the benefit of, the holders of certain Allowed Claims in accordance with the Plan and this Trust Agreement;

WHEREAS, the powers, authority, responsibilities and duties of the Trustee shall be governed by this Trust Agreement, the Plan, the Confirmation Order, or other applicable orders issued by the Bankruptcy Court, and with respect to the Trustee only, obligations under applicable law;

WHEREAS, the Creditor Trust is established for the primary purpose of administering, liquidating and distributing the Trust Assets (as defined herein) in accordance with Treasury Regulations Section 301.7701-4(d) (all references to Treasury Regulations, herein, shall refer to Title 26 of the Code of Federal Regulations), with no objective or authority to continue or engage in the conduct of a trade or

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business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the trust;

WHEREAS, the Creditor Trust is intended to qualify as a “liquidating trust” within the meaning of Treasury Regulations Section 301.7701-4(d) and, as such, is intended to qualify as a “grantor trust” for federal income tax purposes with the beneficiaries of the Creditor Trust treated as the grantors and owners of the Creditor Trust; and

WHEREAS, any reference herein to a holder of an interest in the Creditor Trust means a holder recorded on the official register maintained by the Trustee (the “Register”) and shall not mean any beneficial owner not recorded on such official registry.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and in the Plan, the Debtors and the Trustee agree as follows:

ESTABLISHMENT OF THE CREDITOR TRUST

1.1 Transfer of Property to Trustee; Assignment and Assumption of Claims.

a. Pursuant to the Plan, the Creditor Trust is hereby established on behalf, and for the benefit, of holders of the Allowed Claims specified in Section 2.2 of this Trust Agreement, to be treated as the grantors and deemed owners of the Creditor Trust. Upon the Effective Date of the Plan, (1) the Debtors shall transfer the Creditor Trust Initial Administrative Funding in the amount of \$100,000 to the Creditor Trust if sufficient LEO Bonds have been released and Cash proceeds received; provided that if sufficient LEO Bonds have not been released and Cash proceeds received, the First Lien Noteholders shall, in consultation with the Debtors and the Creditors Committee and with notice to the Trustee, fund the Creditor Trust Initial Administrative Funding with other cash available from the Noteholder Trust Assets or from such other source as agreed to by the Debtors and the Creditors Committee, in which case such alternative funds shall be transferred by the Debtors to the Creditor Trust, and (2) except as otherwise set forth in the Plan, the Debtors shall transfer, assign, and deliver to the Creditor Trust all of their right, title, and interest in each and every asset of the estates not otherwise distributed pursuant to the Plan, including all Causes of Action preserved by the Plan in section 5.10 (or otherwise), the Miscellaneous Assets and the Unencumbered Cash, free and clear of any lien, claim or interest in such property of any other person or entity (collectively, the “Trust Assets”), notwithstanding any prohibition of assignability under non-bankruptcy law. The transfer effected pursuant to this Section 1.1 includes, but is not limited to, all rights to assert, waive, or otherwise exercise any attorney-client privilege, work product protection or other privilege, immunity, or confidentiality provision vested in, or

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controlled by the Debtors and their estates. The Trustee agrees to accept and hold the Trust Assets in trust on behalf, and for the benefit, of holders of the Allowed Claims specified in Section 2.2 of this Trust Agreement, subject to the terms of this Trust Agreement and the Plan. Upon the transfer of the Trust Assets, the Trustee shall succeed to all of the Debtors' right, title and interest in the Trust Assets and the Debtors will have no further interest in or with respect to the Trust Assets or this Creditor Trust.

b. The Debtors hereby transfer and assign the Trust Assets to the Creditor Trust, for the benefit of the beneficiaries of the Creditor Trust, and the Trustee hereby assumes and agrees that all such Trust Assets will be transferred to and vest in the Creditor Trust in accordance with section 1141 of the Bankruptcy Code.

1.2 Treatment of Transfer of Trust Assets. As provided in the Plan, the Trust Assets shall be treated by all parties (including, without limitation, the Debtors, the Trustee and the beneficiaries of the Creditor Trust) for U.S. federal income tax purposes as being (i) a transfer of the Trust Assets directly to the beneficiaries of the Creditor Trust followed by (ii) the transfer by the beneficiaries of the Creditor Trust to the Creditor Trust of the Trust Assets in exchange for beneficial interests in the Creditor Trust for the benefit of such beneficiaries (the "Creditor Trust Interests"). The Creditor Trust will be treated as a grantor trust for U.S. federal tax purposes and, to the extent permitted under applicable law, for state and local income tax purposes. The beneficiaries of the Creditor Trust will be treated as the grantors and owners of their Pro Rata (by Class or category of Claim) portion of Creditor Trust Assets (as represented by such beneficiaries' Creditor Trust Interests) for U.S. federal income tax purposes.

1.3 Valuation of Trust Assets. The Trustee shall (to the extent the Trustee deems it necessary or appropriate in his reasonable discretion) determine the value of the Trust Assets as soon as possible after the Effective Date, and all parties, including the Trustee and beneficiaries of the Creditor Trust, shall consistently use this valuation for all U.S. federal income tax purposes, including for determining gain, loss, or tax basis.

1.4 Trustee. Alexandre Zyngier, of Batuta Capital Advisors LLC, is hereby appointed to serve as the Trustee and agrees to serve in such capacity upon the Effective Date of the Plan and pursuant to the terms of the Plan and this Trust Agreement. A successor Trustee shall be appointed as set forth in this Trust Agreement in the event the Trustee is removed, resigns or otherwise vacates the position pursuant to the Trust Agreement.

1.5 Ownership by Trustee. The Trustee shall promptly record or register in his or her name as trustee, or in the name or names of any nominee or person, in accordance with the terms hereof, ownership of all Trust Assets received by him or her as Trustee and comply with all provisions of law that may bear on the evidencing of ownership of and title to any portion of the Trust Assets as are

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necessary and appropriate and that the Trustee determines are in the best interests of the Creditor Trust. The Trustee shall use a custodian (such as a FDIC insured bank or a SIPC insured financial institution) to maintain the Cash, securities and similar investments of the Creditor Trust.

1.6 Name. The Creditor Trust shall be named and known as the Linc Chapter 11 Creditor Trust.

CREDITOR TRUST INTERESTS

2.1 Identification of Holders of Creditor Trust Interests. The record holders of Creditor Trust Interests shall be the holders of the Allowed Claims specified in Section 2.2 of this Trust Agreement, and shall be recorded and set forth in the Register expressly for such purpose. On the Effective Date or as soon as possible thereafter, the Debtors shall provide the Trustee with a Claims register or other document setting forth the names, addresses, any tax identification numbers (if known) and Claim amounts, and noting whether any such Claims are Disputed and whether any Disputed Claims are expected to become Allowed Claims and, if so, the expected Allowed amount. None of the Debtors, the Creditor Trust and the Trustee, members of the Creditor Trust Advisory Board, the Ad Hoc Noteholder Group, the Creditors' Committee or their respective advisors shall incur any liability in connection with the determination of the interests of the beneficiaries in the Creditor Trust and the size of the Claims Reserve Holdback unless such determination is based on their own fraud, gross negligence, or willful misconduct and not indemnified by this Trust Agreement. The Creditor Trust and the Trustee shall have the absolute and unconditional right to rely on the information provided by the Debtors for purposes of notices and distributions under this Trust Agreement and neither the Creditor Trust, the Trustee nor the members of the Creditor Trust Advisory Board shall incur any liability by relying on the information received under this Section 2.1.

2.2 Creditor Trust Interests. Holders of Allowed Claims will receive the Creditor Trust Interests specified below:

Class	Claim	Name of Creditor Trust Interest	Creditor Trust Interest is Payable From
	Administrative Claims	Claims Reserve Holdback Trust Interests	Claims Reserve Holdback
	Priority Tax Claims	Claims Reserve Holdback Trust Interests	Claims Reserve Holdback
	Professional Claims	Claims Reserve Holdback Trust Interests	Claims Reserve Holdback
1	Other Priority Claims	Claims Reserve Holdback Trust Interests	Claims Reserve Holdback

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2	Other Secured Claims	Claims Reserve Holdback Trust Interests	Claims Reserve Holdback
3	First Lien Note Claims	Noteholder Trust Interests	Noteholder Trust Assets
5	General Unsecured Claims	GUC Trust Interests	GUC Trust Assets

For the avoidance of doubt, holders of Creditor Trust Interests will only be entitled to distributions from the assets or proceeds sources specified above. For example, a Class 5 holder would hold a GUC Trust Interest and would be entitled to distributions only from GUC Trust Assets or proceeds therefrom. All references in this Trust Agreement to holders of an interest in the Creditor Trust shall be read to mean holders of record as set forth in the Register and shall not mean any beneficial owner not recorded on the Register. The Creditor Trust Interests shall not be evidenced by certificates.

2.3 Transferability of Creditor Trust Interests. Subject to compliance with applicable law, the Creditor Trust Interests are transferable upon written notice to the Trustee prior to a final distribution or winding up of the Trust, provided, however, that neither the Creditor Trust nor the Trustee shall (i) list the Creditor Trust Interests on any national securities exchange or on the NASDAQ Stock Market, (ii) advertise to facilitate the transfer of the Creditor Trust Interests, (iii) market the Creditor Trust Interests or (iv) collect or publish prices at which the Creditor Trust Interests may be transferred. Any transfer of Creditor Trust Interest will not be effective unless and until (a) the Trustee receives written notice of such transfer by the appropriate party, (b) the proposed transfer complies with all applicable securities laws, and (c) the Trustee receives any tax information reasonably requested by the Trustee from the transferee and transferor. The Trustee shall not be required to record any transfer in favor of any transferee, which in the sole discretion of the Trustee after consulting with professionals, is or might be construed to be ambiguous or to create uncertainty as to the holder of the Creditor Trust Interests. Until a transfer is recorded in the books and records maintained by the Trustee for purposes of identifying beneficiaries of the Creditor Trust, the Trustee may nevertheless make distributions and send communications to beneficiaries of the Creditor Trust as though he has no notice of any such transfer, and in doing so the Trustee shall be fully protected and incur no liability to any purported transferee or any other entity.

2.4 Holders of Creditor Trust Interests Have No Rights in Connection with Administration of the Creditor Trust. Except as provided in the Plan, this Trust Agreement grants exclusive authority over administration of the Creditor Trust to the Trustee; accordingly, the holders of Creditor Trust Interests have no voting rights and no rights to administer the Creditor Trust except with respect to the appointment of the Trustee and any successor, as set forth below.

PURPOSE, AUTHORITY, LIMITATIONS, DISTRIBUTIONS AND DUTIES

3.1 Purpose of the Creditor Trust. The Creditor Trust shall be established for the primary purpose of liquidating the Trust Assets and distributing the proceeds to holders of Creditor Trust Interests, in accordance with U.S. federal income tax laws, 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 Creditor Trust. Accordingly, the Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the Trust Assets, make timely distributions and not unduly prolong the duration of the Creditor Trust. The liquidation of the Trust Assets may be accomplished either through the sale of Trust Assets (in whole or in combination), including the sale of any rights of action, or through the prosecution or settlement of any rights of action, or otherwise.

3.2 Authority of Trustee. In connection with the administration of the Creditor Trust, except as set forth in this Trust Agreement or the Plan, the Trustee is authorized to perform any and all acts necessary or desirable to accomplish the purposes of the Creditor Trust. Except as otherwise provided in the Plan, nothing in this Trust Agreement shall require the Trustee to file any accounting or seek approval of any court with respect to the administration of the Creditor Trust, or as a condition for managing any payment or distribution out of the Trust Assets, although the Trustee may seek approval of the Bankruptcy Court for any such action. Without limitation, but subject to the foregoing and the provisions of the Plan, the Trustee shall be expressly authorized to:

- a. hold legal title (on behalf of the Creditor Trust as Trustee, but not individually) to any and all rights of the holders of the Creditor Trust Interests in or arising from the Trust Assets, including but not limited to, collecting, receiving any and all money and other property belonging to the Creditor Trust and the right to vote any claim or interest in a case under the Bankruptcy Code and receive any distribution therein; provided, however, the Trustee shall have the power to cause legal title (or evidence of title) to any of the Trust Assets to be held by any nominee, on such terms and in such manner as the Trustee may determine;
- b. perform the duties, exercise the powers, and assert the rights of a trustee under the Bankruptcy Code (including, but not limited to, Sections 704, 544, 108 and 1106) and be a representative of the Estates for purposes of Section 1123 of the Bankruptcy Code, including, without limitation, commencing, prosecuting or settling litigation, enforcing contracts, and asserting claims, defenses, offsets and privileges;
- c. with respect to the Trust Assets, hold the attorney-client privileges (including any work-product privileges or similar evidentiary protections) of all of the Debtors and their chapter 11 estates, all concomitant privileges, the right to assert (or waive) any immunity, privilege or right of confidentiality or privacy of the Debtors or their Estates, in the Trustee's sole discretion;

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- d. protect and enforce the rights to the Trust Assets by any necessary or appropriate means, including, without limitation, by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;
- e. compromise, adjust, arbitrate, sue on or defend, pursue, prosecute, file, abandon, compromise, settle or otherwise resolve, claims and rights of action in favor of or against the Debtors' estates, the Creditor Trust and the Trustee, including (without limitation) those based upon Sections 544, 547, 548, 549, 550, 551 or 553(b) of the Bankruptcy Code, as the Trustee shall deem advisable, and to take any action necessary or appropriate to the foregoing;
- f. avoid and recover transfers of the Debtors' property as may be permitted by the Bankruptcy Code or applicable state law, including, without limitation, those identified in the Disclosure Statement;
- g. assert any and all rights under any insurance policies that indemnify or otherwise insure the Debtors and/or their agents, and any recoveries thereunder, including (but not limited to) casualty, life, fiduciary liability, employment liability, and managerial liability without regard to any deductibles or self-insured retentions;
- h. pursue insurance companies that insured the Debtors, for bad faith refusal to insure, for statutory relief, and/or for relief for violations of an insurance agreement;
- i. determine and satisfy any and all liabilities created, incurred or assumed by the Creditor Trust;
- j. file all tax and information returns, if any, with respect to the Creditor Trust and pay taxes payable by the Creditor Trust, if any, including income taxes, ad valorem taxes and employment taxes;
- k. exercise any and all rights afforded a trustee under Section 505 of the Bankruptcy Code to request a prompt determination of the state and federal tax liabilities of the Debtor, whether such liabilities were incurred prior to the Petition Date or during the pendency of the Debtor's Chapter 11 Case;
- l. pay any expense incurred by the Creditor Trust or the Trustee in the course of administering the Creditor Trust;
- m. at the expense of the Creditor Trust, obtain bonds or insurance coverage with respect to the liabilities and obligations of the Trustee under this Trust Agreement (including, but not limited to, in the form of an errors and omissions policy or otherwise in the discretion of the Trustee);
- n. obtain bonds or insurance coverage with respect to real and personal property which may become Trust Assets, if any;
- o. retain and pay legal counsel to the Creditor Trust for any reason, including to aid in the administration of the Trust, to prosecute or defend any claims or rights of action that constitute the Trust Assets, and to perform such other functions as may be appropriate. The Trustee may commit the Creditor Trust to indemnify any such parties in connection with the performance of services. A law firm or attorney shall not be disqualified from serving as counsel to the Creditor Trust solely because of its prior retention by an official committee or any other party in interest

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in the Chapter 11 Cases. Notwithstanding anything else to the contrary in this agreement, to further the Trust's purpose of liquidating the Trust Assets, the Trustee may (for example, to secure counsel under a contingency fee or hybrid fee arrangement) pledge, encumber, hypothecate, convey, and/or borrow against Trust Assets;

- p. retain and pay accountants to perform any work, including such reviews and/or audits of the financial books and records of the Creditor Trust as may be appropriate and to prepare and file any tax returns or information returns for the Creditor Trust as may be required. The Trustee may commit the Creditor Trust to indemnify any such parties in connection with the performance of services;
- q. retain and pay professionals to assist the Trustee in carrying out the powers and duties of the Trustee under this Trust Agreement. The Trustee may commit the Creditor Trust to indemnify any such parties in connection with the performance of services. A professional shall not be disqualified from rendering services on behalf of the Creditor Trust solely because of its prior retention by an official committee or any other party in interest in the Chapter 11 Cases;
- r. employ one or more employees to assist the Trustee in carrying out the powers and duties of the Trustee under this Trust Agreement. The Trustee may commit the Creditor Trust to, and shall pay, all such employee's compensation, wages or salary in the amounts he or she shall determine to be appropriate. If the Trustee employs employees pursuant to this Section, the Trustee shall establish payroll procedures and pay any and all federal, state or local tax withholding required under applicable law with respect to any such employees, obtain worker's compensation insurance and take all other actions he or she deems necessary or appropriate to effectuate the provisions of this Section, including establishing and adopting or ceasing to provide any employee benefits;
- s. invest any moneys held as part of the Creditor Trust in accordance with the terms of Section 4.6 hereof, limited to such investments that are consistent with the Creditor Trust's status as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d);
- t. request any appropriate tax determination with respect to the Creditor Trust, including, without limitation, a determination pursuant to Section 505 of the Bankruptcy Code;
- u. seek the examination of any entity under the provisions of Bankruptcy Rule 2004 or any other similar process;
- v. compromise, adjust, arbitrate, sue on, defend, pursue, prosecute, abandon, settle, compromise, or otherwise deal with, in accordance with the terms hereof, any actions in favor of or against the Debtors (that are included in Trust Assets), the Creditor Trust or the Trustee;
- w. obtain an estimation of any claims, including contingent or unliquidated claims, under the Bankruptcy Code;
- x. sell, auction, lease, rent, encumber or transfer any Trust Assets, consistent with the purposes of the Creditor Trust, as the Trustee shall deem advisable, and to take any and all actions necessary or appropriate to accomplish the foregoing;

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- y. except as otherwise provided in the Plan, abandon any Trust Assets that cannot be sold or otherwise disposed of for value and whose distribution to holders of Creditor Trust Interests would not be feasible or cost-effective based on the judgment and discretion of the Trustee;
- z. file with the Bankruptcy Court the reports and other documents required by the Plan and/or Confirmation Order, or as otherwise required by the Bankruptcy Code;
- aa. appear in, defend, or otherwise be heard as a party in interest in (i) appeals from the order confirming the Plan and any proceedings related thereto; (ii) proceedings related to the enforcement or interpretation of the Plan or the Trust Agreement; (iii) proceedings related to modifications or amendments to the Plan or the Trust Agreement; (iv) proceedings related to the establishment and administration of the Creditor Trust; and (v) proceedings related to the allowance of claims for compensation or expenses of counsel, accountants, professionals or employees employed by the estate, the Debtor, the Creditor Trust Advisory Board or the Creditor Trust;
- bb. file motions with the Bankruptcy Court seeking instruction or approval of any matter affecting the administration of the Creditor Trust, provided that the Trustee shall not be required to obtain such approval to the extent any proposed action or inaction is authorized by this Trust Agreement;
- cc. take or refrain from taking any and all actions the Trustee reasonably deems necessary for the continuation, protection and maximization of the Trust Assets or to carry out the purposes hereof; and
- dd. retain and employ any professionals or employees, and compromise or abandon litigation, as provided herein, in each case, without approval of the Bankruptcy Court.

3.3 Limitation of Trustee's Authority; Advisory Board Approval.

a. A three-member Creditor Trust advisory board (the "Creditor Trust Advisory Board") shall be formed, with one member initially appointed by holders of a majority of the principal amount of the First Lien Notes, as reflected in the First Lien Indenture Trustee's books and records as of the Distribution Record Date, one member initially appointed by the Creditors Committee, and one member being the Trustee. Any vacancy on the Creditor Trust Advisory Board, other than that of the Trustee, shall be filled by (a) if the vacancy is caused by the departure of the member appointed by holders of a majority of the principal amount of the First Lien Notes, a member appointed by the holders of Noteholder Trust Interests representing a majority of the principal amount of the First Lien Notes, as reflected in the First Lien Indenture Trustee's books and records as of the Distribution Record Date, or (b) if the vacancy is caused by the departure of the member appointed by the Creditors Committee, the unanimous vote of the former members of the Creditors Committee; provided that if such vacancy is not filled within 20 days of its occurrence, the Trustee shall appoint such member.

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b. Notwithstanding anything herein to the contrary, the Trustee shall not engage in any trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Creditor Trust, shall not take actions inconsistent with the orderly liquidation of the Trust Assets and distributions to beneficiaries as are required by applicable law, and shall not take actions inconsistent with the Plan. The Trustee shall not engage in any investment or activity inconsistent with the treatment of the Creditor Trust as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d).

c. The Trustee shall not commingle any of the Trust Assets with his or her own property or the property of any other person.

d. Neither the Creditor Trust nor the Trustee shall take any action that would result in the Creditor Trust becoming subject to registration as an “investment company” pursuant to the Investment Company Act of 1940, as amended.

e. The Trustee shall have all the rights, powers and duties necessary to carry out its responsibilities under the Plan and this Trust Agreement, subject to the advice and, as set forth herein, the approval, of the Creditor Trust Advisory Board. The rights and powers of the Trustee, including payment of compensation and reimbursement of expenses for the Trustee or any professionals or employees employed by the Trustee, shall only be limited to the extent, and in the manner provided in, the Plan. The Trustee may obtain the Creditor Trust Advisory Board’s advice for any action by email, without a meeting, provided that the Trustee shall notify each member of the Creditor Trust Advisory Board by email of his or her request for advice simultaneously, and advice shall be deemed to have been provided pursuant to majority vote of the Creditor Trust Advisory Board upon the Trustee’s receipt of return emails from at least two members of the Creditor Trust Advisory Board after a period of time reasonable under the circumstances. If the Trustee determines, in his or her sole discretion, that a meeting of the Creditor Trust Advisory Board should be held or advice should be obtained on an emergency basis, the Trustee shall be entitled to convene a meeting of the Creditor Trust Advisory Board upon 24-hours’ notice, and the Trustee shall be entitled to obtain advice by email upon 24-hours’ notice.

f. In the event of a dispute between the Trustee and the Creditor Trust Advisory Board that cannot be consensually resolved, the Trustee shall bring the matter before the Bankruptcy Court for final resolution after notice and hearing.

g. No member of the Creditor Trust Advisory Board (excluding the Trustee) shall consult on, or participate in a decision regarding, any matter where the Trust is adverse to their or their client’s direct interest (whether as mechanic/materialmen or noteholder), including but not limited to any

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disputes between lienholders regarding their respective lien priorities with respect to specified Trust Assets. For the avoidance of doubt, this subsection shall not preclude the involvement, consultation or participation of a member of the Creditor Trust Advisory Board in actions or decisions by the Trustee, including with respect to the resolution or objection of claims, the outcome of which may have an indirect impact on their or their client's interests.

3.4 Books and Records.

a. The Trustee shall maintain in respect of the Creditor Trust and the holders of Creditor Trust Interests books and records relating to the Trust Assets and income of the Creditor Trust and the payment of expenses of, and liabilities of claims against or assumed by, the Creditor Trust in such detail and for such period of time as may be necessary to enable him or her to make full and proper accounting in respect thereof.

b. The Trustee shall take such steps as he or she deems necessary to maintain the separateness of the Claims Reserve Holdback, Noteholder Trust Assets and GUC Trust Assets, as well as proceeds therefrom. Such steps may include, at the discretion of the Trustee, maintaining separate bank accounts or separate book entries for each such category of Trust Assets.

c. The members of the Creditor Trust Advisory Board may obtain information relating to the management of the Trust Assets upon reasonable written notice to the Trustee, subject to applicable privileges, confidentiality requirements and applicable law. A holder of a Creditor Trust Interest may obtain information relating to the management of the Trust Assets (i) for purposes that, in the reasonable discretion of the Trustee, are reasonably related to such holder's interests as holder, (ii) if access is reasonably requested during normal business hours, (iii) if such holder has provided written notice to the Trustee at least 10 days prior to the date it seeks access to information, (iv) provision of such information does not constitute an undue burden on the Trustee, (v) provision of such information is not, in the reasonable discretion of the Trustee, detrimental to the Creditor Trust, (vi) provision of such information would not, in the discretion of the Trustee, conflict with any privilege, confidentiality undertaking, or applicable law, and (vii) all costs associated with such request are paid in advance by such requesting party. The Trustee may require, to the extent he or she deems it necessary or appropriate, that any holder requesting information enter into a confidentiality agreement satisfactory in form and substance to the Trustee prior to obtaining any information. For the avoidance of doubt, nothing in this Trust Agreement provides any holder with a right to review, inspect, seek discovery of or otherwise obtain any information that is privileged or subject to a third party's rights of privacy or confidentiality.

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3.5 Additional Powers. Except as otherwise set forth in this Trust Agreement or in the Plan, and subject to U.S. federal tax laws governing liquidating trusts and the retained jurisdiction of the Bankruptcy Court as provided for in the Plan, but without prior or further authorization, the Trustee may control and exercise authority over the Trust Assets and over the protection, conservation and disposition thereof, including the creation of additional entities and transfers of Trust Assets to those entities.

3.6 Disputed Claims.

a. Subject to the limitations provided in the Plan, the Trustee on behalf of the Creditor Trust shall have the sole right to object to the allowance of any Claims provided for under the Plan. The Trustee shall have the authority to compromise, settle or otherwise resolve all objections, for any Claim filed (or scheduled if no Claim is filed) in the amount of \$25,000 or less without approval of the Bankruptcy Court or notice to the Creditor Trust Advisory Board. For all Claims in excess of \$25,000, the Trustee shall provide the Creditor Trust Advisory Board with seven days' written notice of any proposed settlement. If no objection is served on the Trustee within seven days of the date of such notice, the Creditor Trust Advisory Board shall be deemed to have consented to such settlement and the Trustee may settle such Claim without additional approval of any other person or entity; provided however, that if the Trustee obtains approval of the Creditor Trust Advisory Board prior to the expiration of such seven-day period regarding any such settlement, then the Trustee may settle such Claim immediately. If the Creditor Trust Advisory Board objects to any proposed settlement, the Trustee shall either (i) withdraw the settlement; or (ii) bring the matter before the Bankruptcy Court for final resolution after notice and hearing. Unless otherwise ordered by the Bankruptcy Court, the Trustee shall file and serve all objections to Claims no later than (i) 120 days after the later of (a) the Effective Date; or (b) the date on which a proof of claim, proof of interest or request for payment is filed with the Bankruptcy Court, (ii) as agreed to by the Holder of the Claim and Trustee with the consent of the Creditor Trust Advisory Board or (iii) such other date as may be approved by the Bankruptcy Court upon the Trustee's motion.

b. The Trustee shall establish one or more reserves for the treatment of Disputed Claims (each a "Disputed Claims Reserve"). Each Disputed Claims Reserve shall be either (a) held in a separate bank account from all other funds held by the Creditor Trust/Trustee or (b) segregated by book entry in the Trustee's accounting records. In no event shall reserves for Disputed Claims that are Administrative Claims, Priority Tax Claims, Professional Claims, Other Priority Claims or Other Secured Claims be commingled with reserves established for Disputed Claims in Class 5, and, subject to the Trustee's reasonable discretion, separate Disputed Claims Reserves shall be established for such

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Disputed Claims. The Trustee shall deposit into each Disputed Claims Reserve an amount equal to the Pro Rata share of the Trust Assets allocable to the Disputed Claims being reserved for, in accordance with the distribution scheme contemplated in the Plan, as if such Claims were Allowed Claims. Amounts deposited into the Disputed Claims Reserves shall be held in trust for the benefit of the holders of Disputed Claims pending a determination of their entitlement thereto under the terms of the Plan. Once a Disputed Claim is determined by Final Order or settlement to be an Allowed Claim, the Trustee shall pay (subject to the Plan and Confirmation Order, and in accordance with the distribution mechanics set forth herein) the Allowed Amount of such Claim without further approval from or notice to any person or entity. Any amounts remaining in any Disputed Claims Reserve established for Disputed Claims that are Administrative Claims, Priority Tax Claims, Professional Claims, Other Priority Claims or Other Secured Claims following final adjudication or settlement of such Disputed Claims shall become Noteholder Trust Assets. Any amounts remaining in any Disputed Claims Reserve established for Disputed Claims in Class 5 following final adjudication or settlement of such Disputed Claims shall become GUC Trust Assets.

3.7 Distributions; Withholding.

a. Except as otherwise provided in the Plan, the Trustee shall make distributions of Cash to holders of Creditor Trust Interests (or, in the discretion of the Trustee and by agreement with a holder or holders of Creditor Trust Interests, Trust Assets in lieu of Cash), as applicable, within a reasonable time after liquidation of all assets of the Creditor Trust and payment, or at the discretion of the Trustee reservation, of final trust expenses and reasonable administrative and Plan wind-down expenses. Subject to the Plan, the Trustee may, at the Trustee's discretion, make interim distributions to holders of beneficial interests in the Creditor Trust and shall make interim distributions to holders of beneficial interests in the Creditor Trust every three months beginning on the date that is three months after the Effective Date (each distribution, a "Quarterly Distribution"); provided, that the Trustee may, with the consent of the Creditor Trust Advisory Board, choose not to make any Quarterly Distribution that the Trustee determines is not in the best interests of the Creditor Trust. Interest shall not accrue on any amounts not distributed. The Trustee shall make any and all distributions in accordance with this Trust Agreement. Notwithstanding the foregoing, at least annually commencing no later than the first anniversary of the Effective Date, the Trustee shall make distributions to holders of Creditor Trust Interests of all net proceeds, if any, from the sale of assets and all of the Trust's net income, if any, less amounts that are reasonably necessary to maintain the value of the Trust's assets or to meet claims and contingent liabilities (including any amounts deposited into any Disputed Claims Reserve in accordance

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with this Trust Agreement). At the option of the Trustee, any payment to be made hereunder may be made by a check, wire transfer or other method of payment.

b. Distributions to holders of Creditor Trust Interests (other than Noteholder Trust Interests) shall be made by the Trustee to such holders (a) at the addresses set forth on the Register delivered to the Trustee in accordance with Section 2.1 of this Trust Agreement, (b) at the addresses set forth in any written notices of address changes delivered to the Trustee after the Effective Date, or as otherwise agreed by the Trustee and the holder of a Creditor Trust Interest. The Trustee is not obligated to make any effort to determine the correct address of any holder of a Creditor Trust Interest.

c. Distributions on account of Noteholder Trust Interests shall be made by the Trustee to (i) the First Lien Indenture Trustee, (ii) with the prior written consent of the First Lien Indenture Trustee, by means of book-entry exchange through the facilities of the Depository Trust & Clearing Corporation and its successors and assigns (“DTCC”) in accordance with DTCC’s customary practices, or (iii) as otherwise directed by the First Lien Indenture Trustee. If a distribution is made to the First Lien Indenture Trustee, the First Lien Indenture Trustee, in its capacity as a distribution agent, shall administer the distribution in accordance with the Plan and the First Lien Indenture. Nothing herein shall be deemed to impair, waive or extinguish any right of the First Lien Indenture Trustee with respect to any charging lien against distributions.

d. Before receiving a distribution of Cash or Trust Asset, each holder of Creditor Trust Interests shall furnish, in writing, its name, address, tax identification number, and completed IRS Form W-9 or appropriate IRS Form W-8, as applicable, to the Trustee within 60 days of a written request from the Trustee. Notwithstanding the foregoing, each individual holder of Prepetition Notes is not required to provide the Trustee with an IRS Form W-9 or appropriate IRS Form W-8, as applicable, and, instead, this requirement shall be deemed satisfied by the receipt of either an IRS Form W-9 or appropriate IRS Form W-8, as applicable, from the DTCC as provided by the First Lien Indenture Trustee. The Trustee of the Creditor Trust shall be entitled to withhold from any distribution any and all amounts that the Trustee determines are required to be withheld by any law, regulation, rule, ruling, order, directive or other governmental requirement.

3.8 Creditor Trust Expenses. The Trustee shall use best efforts to fund and/or charge all expenses of the Creditor Trust from the Trust Assets to which such activities and costs relate; provided that the Creditor Trust Initial Administrative Funding and, when such funding is exhausted, the Remaining Creditor Trust Assets shall be available in all instances to pay such costs and expenses that cannot be reasonably allocated to other Trust Assets.

3.9 Reporting by the Trustee.

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a. U.S. Federal Income Tax. Subject to definitive guidance from the Internal Revenue Service (the “IRS”) or a court of competent jurisdiction to the contrary (including the receipt by the Trustee of a private letter ruling if the Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Trustee), the Trustee shall file returns for the Creditor Trust as a grantor trust pursuant to Treasury Regulations Section 1.671-4(a).

b. Other Reporting. The Trustee shall file (or cause to be filed) any other statements, returns or disclosures relating to the Creditor Trust that are required by any governmental authority.

3.10 Compliance with Laws. The Trustee may rely on the advice of counsel or other professionals to ensure that any and all distributions of Trust Assets and proceeds of borrowings, if any, shall be in compliance with applicable laws, including, but not limited to, applicable federal and state securities laws.

THE TRUSTEE OF THE CREDITOR TRUST

4.1 Generally. The Trustee’s powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of this Creditor Trust and not otherwise, except that the Trustee may deal with the Trust Assets as permitted herein, subject only to any limitations imposed under the Plan.

4.2 Responsibilities of Trustee. The Trustee shall, in an expeditious but orderly manner, administer, liquidate and convert to Cash and/or distribute the Trust Assets, make timely distributions, make any payments required for reasonable administrative and Plan wind-down expenses, including amounts reasonably required by the Debtors to wind down their affairs and effectuate the dissolution of each corporate entity, in each case in accordance with the Plan, and not unduly prolong the duration of the Creditor Trust. In so doing, the Trustee shall be entitled to exercise reasonable business judgment in liquidating the Trust Assets. The liquidation of the Trust Assets may be accomplished through the sale or transfer of Trust Assets (in whole or in combination), including the sale of any right of action or through the prosecution or settlement of any or all rights of action, or otherwise. In connection therewith, and without limiting any other power or grant of authority under this Trust Agreement, the Trustee shall have the power to (a) prosecute for the benefit of the Creditor Trust all claims, rights and rights of action transferred, or assigned or contributed, to the Creditor Trust whether or not such suits are brought in the name of the Creditor Trust, the Trustee, the Debtor, the estate or otherwise for the benefit of the holders of Creditor Trust Interests, (b) liquidate the Trust Assets, such as through the sale of assets

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(in whole or in combination thereof), and (c) otherwise perform the functions and take the actions permitted or required by the Plan, under applicable law, by this Trust Agreement or in any other agreement executed by the Trustee. Any and all proceeds generated from the Trust Assets shall be the property of the Creditor Trust, as contemplated by and subject to the applicable provisions of the Plan and this Trust Agreement.

4.3 Standard of Care; Indemnification, Exculpation.

a. None of the Trustee or the attorneys, accountants, professionals, employees or any other duly designated agent or representative of the Trustee or the Creditor Trust Advisory Board shall be personally liable, and no holder of a Creditor Trust Interest shall have a right to institute any action or proceeding against such parties, for (i) claim, expense, liability or other obligation asserted against the Creditor Trust or (ii) any negligence or any act or omission taken or omitted to be taken in the capacity of Trustee or attorney, accountant, professional, employee or other agent or representative of the Creditor Trust, other than acts or omissions resulting from willful misconduct, gross negligence or fraud as determined by a Final Order, or solely in the case of the Trustee, breach of fiduciary duty. Any act or omission taken with the approval of the Bankruptcy Court will be conclusively deemed not to constitute gross negligence, willful misconduct, fraud or a breach of fiduciary duty.

b. The Trustee may, in connection with the performance of his or her functions, and in his or her sole discretion, consult with his or her attorneys, accountants and professionals, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such persons. Notwithstanding such authority, the Trustee shall not be under any obligation to consult with his or her attorneys, accountants or professionals, and their determinations shall not result in the imposition of liability upon the Trustee.

c. The Creditor Trust shall indemnify and hold harmless the Trustee (and his or her successors), the Creditor Trust Advisory Board, the members of the Creditor Trust Advisory Board, and the Trustee's attorneys, accountants, professionals, employees and all duly designated agents and representatives of the Trustee or the Creditor Trust (in their capacity as such), from and against and in respect of all liabilities, losses, damages, claims, costs and expenses, including, but not limited to attorney's fees and costs arising out of or due to their actions or omissions, or consequences of their actions or omissions with respect to the Creditor Trust or the implementation or administration of the Creditor Trust; provided, however, that no such indemnification will be made to such persons for actions or omissions as a result of willful misconduct, gross negligence or fraud.

d. If the Trustee, the Creditor Trust Advisory Board, or members of the Creditor Trust Advisory Board become involved in any action, proceeding, or investigation in connection with

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any matter arising out of or in connection with this Trust Agreement or the affairs of the Creditor Trust or the Creditor Trust Advisory Board, the Creditor Trust shall periodically advance or otherwise reimburse on demand the Trustee's or the Creditor Trust Advisory Board's reasonable legal and other expenses (including, without limitation, the cost of any investigation, and attorney's fees, disbursements, and related expenses) incurred in connection therewith, but the Trustee shall be required to repay promptly to the Creditor Trust the amount of any such advanced or reimbursed expenses paid to the Trustee to the extent that it shall be determined by final adjudication that the Trustee engaged in fraud, willful misconduct, or gross negligence in connection with the affairs of the Creditor Trust with respect to which such expenses were paid. The Creditor Trust may indemnify and hold harmless the attorneys, accountants, professionals, employees and agents of the Creditor Trust to the same extent as provided herein.

e. The provisions of this Section shall remain available to and be binding on any former Trustee or the estate of any deceased Trustee, and to any successor Trustee.

f. The Trustee shall only be entitled to indemnification from the Creditor Trust under this Section to the extent that the Trustee is not covered by insurance purchased by the Trust, if any.

g. The Trustee and his attorneys, accountants, professionals, employees or any other duly designated agent or representative of the Trustee or the Creditor Trust Advisory Board shall be and hereby are exculpated by all Persons and entities, including without limitation, holders of Claims and other parties in interest, from any and all claims arising out of the discharge of the powers and duties conferred upon said parties pursuant to or in furtherance of this Trust Agreement, the Plan, or any order of the Bankruptcy Court or other applicable law or otherwise, except for actions taken or not taken, from and after the Effective Date only to the extent determined by a Final Order to be solely due to their own respective gross negligence, willful misconduct, fraud, or solely in the case of the Trustee, breach of fiduciary duty.

4.4 Reliance by Trustee. The Trustee may rely, and shall be fully protected in acting or refraining from acting, on any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document that the Trustee has no reason to believe to be other than genuine and to have been signed or presented by the proper party or parties or, in the case of facsimiles or e-mails to have been sent by the proper party or parties, and the Trustee may conclusively rely as to the truth of the statements and correctness of the opinions expressed therein. The Trustee may consult with counsel, and any opinion of counsel shall be full and complete authorization and protection in respect to any action taken or suffered by the Trustee in accordance therewith.

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4.5 Reliance by Persons Dealing With the Creditor Trust. In the absence of actual knowledge to the contrary, any person dealing with the Creditor Trust shall be entitled to rely on the authority of the Trustee to act in connection with the acquisition, management, or disposition of Trust Assets and shall have no obligation to inquire into the existence of such authority.

4.6 Investment and Safekeeping of Trust Assets. Cash held pending distribution shall, to the extent permitted by applicable law, be invested by the Trustee in (a) a checking account at an FDIC or SIPC insured financial institution, (b) direct obligations of, or obligations guaranteed by, the United States of America (including without limitation United States Treasury Bills); (c) obligations of any agency or corporation that is or may hereafter be created by or pursuant to an Act of the Congress of the United States as an agency or instrumentality thereof; or (d) demand deposits or short-term certificates of deposit at any bank or trust company that the Trustee deems appropriate. The scope of any such permissible investments shall be limited to include only those investments, or shall be expanded to include any additional investments, as the case may be, that a liquidating trust, within the meaning of Treasury Regulations Section 301.7701-4(d) may be permitted to hold, pursuant to any amendment or addition to the Internal Revenue Code of 1986, as amended (the "Code") or to the Treasury Regulations, or any modification in IRS guidelines whether set forth in IRS rulings, other IRS pronouncements, or otherwise.

4.7 Expense Reimbursement and Compensation.

a. Notwithstanding anything in the Plan, the Trust Assets shall be subject to the claims of the Trustee, and the Trustee is entitled to reimbursement out of Cash in the Creditor Trust, for (i) the Trustee's actual out-of-pocket expenses including, as examples, agents and professionals, and (ii) from any and all loss, liability, expense, or damage which is indemnified in this agreement. The Trustee shall be entitled to compensation at his or her standard hourly rate as set forth in **Exhibit A** hereto, or as otherwise set forth in the Plan and Confirmation Order.

b. If the Cash in the Creditor Trust is at any time insufficient to compensate and reimburse the Trustee, including any professionals and other third parties retained by the Trustee, for any amounts to which they are entitled hereunder and if the Trustee shall be unable to borrow funds sufficient for such compensation and reimbursement in accordance with the terms of this Trust Agreement, then the Trustee may reduce to Cash that portion of the Trust Assets necessary so as to effect such compensation and reimbursement.

4.8 Bond. The Trustee shall not be required to post a bond.

4.9 Confidentiality. The Trustee shall, while serving as Trustee under this Trust Agreement, following the termination of this Trust Agreement or following the earlier of his or her removal or

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resignation hereunder, 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 Trust Assets relates or of which he has become aware in his or her capacity as Trustee.

SUCCESSOR TRUSTEE

5.1 Resignation. The Trustee may resign by filing not less than 30 days' prior written notice of the proposed effective date of resignation with the Bankruptcy Court. If the Trustee resigns, the holders of Noteholder Trust Interests representing a majority of the principal amount of the First Lien Notes, as reflected in the First Lien Indenture Trustee's books and records as of the Distribution Record Date, shall be authorized to appoint a successor Trustee; provided that such holders shall consult with the member of the Creditor Trust Advisory Board selected by the Creditors Committee (or former members thereof) prior to appointing such successor Trustee. The Trustee shall continue to serve as the Trustee after notice of resignation until the proposed effective date of such resignation unless the Bankruptcy Court otherwise determines or consents to an earlier effective date, which shall be the date that appointment of a successor Trustee becomes effective.

5.2 Removal. The Trustee may be removed by the Bankruptcy Court for Cause and upon reasonable notice. "Cause" means (i) fraud, willful misconduct or gross negligence in connection with the affairs of the Creditor Trust, (ii) such physical or mental disability as substantially prevents the Trustee from performing his or her duties as Trustee hereunder, or (iii) breach of a fiduciary duty or an unresolved material conflict of interest. The Trustee may be removed by the unanimous vote (excluding the vote of the Trustee) of the Creditor Trust Advisory Board without cause. If removed by vote, the Trustee shall be replaced by the vote of the holders of a majority of the principal amount of the First Lien Notes, as reflected in the First Lien Indenture Trustee's books and records as of the Distribution Record Date, in consultation with the member of the Creditor Trust Advisory Board selected by the Creditors Committee (or former members thereof).

5.3 Acceptance of Appointment by Successor Trustee. Any successor Trustee appointed hereunder shall execute and file with the Bankruptcy Court an instrument accepting such appointment in form satisfactory to the successor Trustee. Thereupon, such successor Trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts and duties of his or her predecessor in the Creditor Trust with like effect as if originally named herein; provided, however, that a removed or resigning Trustee shall, nevertheless, when requested in writing by the successor Trustee,

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execute and deliver an instrument or instruments conveying and transferring to such successor Trustee under the Creditor Trust all the estates, properties, rights, powers, and trusts of such predecessor Trustee.

5.4 Continuance of Trust. The death, resignation, or removal of the Trustee shall not operate to terminate the Creditor Trust created by this Trust Agreement or revoke any existing agency (other than the agency of the former Trustee as Trustee) created pursuant to the term of this Trust Agreement or invalidate any action taken by the Trustee. The Trustee agrees that the provisions of this Trust Agreement shall be binding upon and inure to the benefit of the Trustee and the Trustee's heirs, legal and personal representatives, successors or assigns, as the case may be. In the event of the resignation or removal of the Trustee, the resigning or removed Trustee shall, at the expense of the Creditor Trust, promptly (i) execute and deliver by the effective date of resignation or removal such documents, instruments, and other writings as may be reasonably requested by the successor Trustee to effect the termination of the resigning or removed Trustee's capacity under this Trust Agreement and the conveyance of the Trust Assets then held by the resigning or removed Trustee to the successor Trustee; (ii) deliver to the successor Trustee all documents, instruments, records, and other writings relating to the Creditor Trust as may be in the possession or under the control of the resigning or removed Trustee; and (iii) otherwise assist and cooperate in effecting the assumption of the resigning or removed Trustee's obligations and functions by the successor Trustee. The resigning or removed Trustee hereby irrevocably appoints the successor Trustee as attorney-in-fact and agent with full power of substitution for and in his or her name, place and stead to do any and all such acts that such resigning or removed Trustee is obligated to perform under this Section. Such appointment shall not be affected by the subsequent disability or incompetence of the Trustee making such appointment.

REPORTS TO HOLDERS OF CREDITOR TRUST INTERESTS

6.1 Securities Laws Reporting. Under section 1145 of the Bankruptcy Code, the issuance of Creditor Trust Interests under the Plan shall be exempt from registration under the Securities Act of 1933, as amended, and applicable state and local laws requiring registration of securities, if applicable.

6.2 Tax Reporting. Promptly following the end of each taxable year, the Trustee shall cause to be sent to each holder of a Creditor Trust Interest appearing on the Register during such year a statement setting forth each holder's share of items of income, gain, loss, deduction or credit for U.S. federal income tax returns (if any). Allocations of Creditor Trust taxable income shall be determined by reference to the manner in which an amount of Cash equal to such taxable income would be distributed (without regard to any restrictions on distributions described herein or in the Plan or Disclosure

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Statement) if, immediately prior to such deemed distribution, the Creditor Trust had distributed all of its other assets (valued for this purpose at their tax book value) to the holders of Creditor Trust Interests, taking into account all prior and concurrent distributions from the Creditor Trust. Similarly, taxable loss of the Creditor Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining Trust Assets. For this purpose, the tax book value of the Trust Assets shall equal their value on the Effective Date or, if later, the date such assets were acquired by the Creditor Trust, adjusted in either case in accordance with tax accounting principles prescribed by the Code, the Treasury Regulations and other applicable administrative and judicial authorities and pronouncements.

TERMINATION OF THE CREDITOR TRUST

7.1 Termination of the Creditor Trust. The Creditor Trust shall terminate after all Trust Assets have been fully resolved, abandoned or liquidated and the Trust Assets have been distributed in accordance with this Trust Agreement; provided, however, except in the circumstances set forth below, the Creditor Trust shall terminate no later than five years after the Effective Date. If warranted by the facts and circumstances provided for in the Plan, and subject to the approval of the Bankruptcy Court upon a finding that an extension is necessary for the purpose of the Creditor Trust, the term of the Creditor Trust may be extended, one or more times (not to exceed a total of four extensions, unless the Creditor Trust receives a favorable ruling from the IRS that any further extension would not adversely affect the status of the Creditor Trust as a grantor trust for U.S. federal income tax purposes), for a finite period, not to exceed three years at each extension, based on the particular circumstances at issue. Upon the occurrence of the termination of the Creditor Trust, the Creditor Trustee shall file with the Bankruptcy Court a report thereof, seeking discharge of the Creditor Trustee. If any Trust Assets are not timely claimed, (i) any such Noteholder Trust Assets will be redistributed to all other holders of Noteholder Trust Interests and (ii) any such GUC Trust Assets will be redistributed to all other holders of GUC Trust Interests, in each case pursuant to the terms hereof. The Trustee shall be entitled to take all steps necessary to terminate the Trust, as provided above, without further order of the Bankruptcy Court.

AMENDMENT AND WAIVER

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8.1 Amendment and Waiver. Any substantive provision of this Trust Agreement may be amended or waived by order of the Bankruptcy Court or by a unanimous vote of the Creditor Trust Advisory Board upon notice to the Bankruptcy Court. Notwithstanding the foregoing, the Trustee, with the prior consent of the members of the Creditor Trust Advisory Board, may amend, supplement, or waive any provision of this Trust Agreement, without notice to or approval of the Bankruptcy Court, in order to: (i) cure any ambiguity, omission, defect, or inconsistency in this Trust Agreement; provided, that such amendments, supplements or waivers shall not be inconsistent with the terms of the Plan or the Confirmation Order or adversely affect the distributions to holders of Creditor Trust Interests or adversely affect the U.S. federal income tax status of the Creditor Trust as a “liquidating trust”; (ii) comply with any requirements in connection with the U.S. federal income tax status of the Creditor Trust as a “liquidating trust” and grantor trust; and (iii) comply with any requirements in connection with maintaining that the Creditor Trust is not subject to registration or reporting requirements of the Securities Act, the Exchange Act, the Trust Indenture Act, or the Investment Company Act. Notwithstanding this Section, any amendments to this Trust Agreement shall not be inconsistent either the Plan or with the purpose and intention of the Creditor Trust to liquidate in an expeditious but orderly manner the Trust Assets in accordance with the Plan and applicable U.S. federal income tax laws.

MISCELLANEOUS PROVISIONS

9.1 Intention of Parties to Establish a Liquidating Trust. This Trust Agreement is intended to create a liquidating trust for U.S. federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Trust Agreement may be amended to comply with the U.S. federal income tax laws governing liquidating trusts, which amendments may apply retroactively.

9.2 Cooperation and Further Assurances of the Debtors. The Debtors shall, upon reasonable request of the Trustee, execute, acknowledge, and deliver such further instruments and do such further acts as may be necessary or proper to transfer to the Trustee any portion of the Trust Assets intended to be conveyed in the form and manner provided for in the Plan and to vest in the Trustee the powers, instructions, or funds in trust hereunder. The Debtors, for themselves and any predecessor or successor entity, hereby disclaim and waive any and all rights to any reversionary interests in any of the Trust Assets. The Debtors shall relinquish to the Trustee all of the Debtors’ books and records.

9.3 Laws as to Construction; Jurisdiction of Bankruptcy Court. This Trust Agreement shall be governed and construed in accordance with the laws of the State of Texas, without giving effect to

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rules governing the conflict of laws, and federal bankruptcy law to the extent applicable. If the Chapter 11 Cases of the Debtors are pending or reopened, the Bankruptcy Court shall have exclusive jurisdiction to resolve any matters concerning the interpretation or enforcement of this Trust Agreement, and any disputes arising thereunder or in connection therewith between or among the Trustee and the Debtors, the Creditor Trust Advisory Board, any holder of any Creditor Trust Interest and any other party in interest.

9.4 Severability. If any provision of this Trust Agreement or the application thereof to any person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Trust 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 Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

9.5 Notices. 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:

If to the Trustee:

Alex Zyngier
Batuta Capital Advisors LLC
475 Park Ave South | 12th fl
New York, NY, 10016
azyngier@batutaadvisors.com
P: (212)726-6937
C: (914)565-9129

If to the Creditor Trust Advisory Board:

Carl Doré
Doré Law Group, P.C.
17171 Park Row, Suite 160
Houston, Texas 77084
carl@dorelawgroup.net
P: (281) 829-1555
F: (281) 200-0751

-and-

Jamison Lyngstad
Whitebox Advisors LLC
3033 Excelsior Boulevard, Suite 300
Minneapolis, MN 55416

P: (612) 253 6015
jlyngstad@whiteboxadvisors.com

If to the holders of Interests in the Creditor Trust:

For each holder, notices shall be sent to the address on such holder's proof of claim filed with the Court (or if no proof of claim has filed, the address shown for such claimant in the Debtors' schedules), unless such holder has since (1) filed a change of address notification with the Court, or (2) following the Effective Date, notified the Trustee in writing of such holder's change of address.

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

9.7 Relationship to the Plan. The principal purpose of this Trust Agreement is to aid in the implementation of the Plan and therefore this Trust Agreement incorporates the provisions of the Plan. If any provision of this Trust Agreement is found to be inconsistent with a provision of the Plan or the Confirmation Order, the provision of the Confirmation Order shall first control and thereafter the Plan, unless expressly reserved in this Trust Agreement as notwithstanding a Plan provision.

[Signature Page to follow]

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

LINC USA GP, on behalf of itself and the other Debtors party hereto

By: _____
Michael Mapp
President

TRUSTEE

By: _____
Alexandre Zyngier
Trustee of the
Linc Chapter 11 Creditor Trust

Exhibit A

Trustee Compensation

Time Period	Rate
First three (3) months following Effective Date	\$10,000 per month plus reasonable out of pocket expenses
Following first three (3) months	Subject to negotiation

EXHIBIT B

CREDITOR TRUST AGREEMENT

This Creditor Trust Agreement (the “Trust Agreement”), by and among Linc USA GP, Linc Energy Finance (USA), Inc., Linc Energy Operations, Inc., Linc Energy Resources, Inc., Linc Gulf Coast Petroleum, Inc., Linc Energy Petroleum (Wyoming), Inc., Paen Insula Holdings, LLC, Linc Alaska Resources, LLC, and Linc Energy Petroleum (Louisiana), LLC (collectively, the “Debtors”) in the chapter 11 cases (the “Chapter 11 Cases”) of the Debtors pending before the United States Bankruptcy Court for the Southern District of Texas as Case Nos. 16-32689 (DRJ) through 16-32695 (DRJ) and Nos. 16-32698 (DRJ) through 16-32699 (DRJ), jointly administered for procedural purposes only under the lead Case No. 16-32689 (DRJ), and ~~Alex~~[Alexandre Zyngier of Batuta Capital Advisors LLC](#), as trustee of the Creditor Trust (“Trustee”), is executed in connection with and as part of the Joint Plan of Liquidation Under Chapter 11 of the Bankruptcy Code dated January 10, 2017, as the same may be amended, modified or supplemented, including by and as confirmed by the Confirmation Order (the “Plan”), which provides for the establishment of a liquidating trust evidenced hereby (the “Creditor Trust”). Except with respect to the terms defined herein, all capitalized terms contained herein shall have the meanings ascribed to them in the Plan.

RECITALS

WHEREAS, the Creditor Trust is created pursuant to, and to effectuate, the Plan;

WHEREAS, the Trustee has been appointed by the Ad Hoc Noteholder Group pursuant to the Plan;

WHEREAS, [on February __, 2017, the Bankruptcy Court entered the Confirmation Order;](#)

[WHEREAS,](#) the Creditor Trust is created on behalf of, and for the benefit of, the holders of certain Allowed Claims in accordance with the Plan [and this Trust Agreement;](#)

[WHEREAS, the powers, authority, responsibilities and duties of the Trustee shall be governed by this Trust Agreement, the Plan, the Confirmation Order, or other applicable orders issued by the Bankruptcy Court, and with respect to the Trustee only, obligations under applicable law;](#)

WHEREAS, the Creditor Trust is established for the primary purpose of [administering,](#) liquidating and distributing ~~its assets~~[the Trust Assets \(as defined herein\)](#) in accordance with Treasury Regulations Section 301.7701-4(d) (all references to Treasury Regulations, herein, shall refer to Title 26 of the Code of Federal Regulations), with no objective or authority to continue or engage in the conduct

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of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the trust;

WHEREAS, the Creditor Trust is intended to qualify as a “liquidating trust” within the meaning of Treasury Regulations Section 301.7701-4(d) and, as such, is intended to qualify as a “grantor trust” for federal income tax purposes with the beneficiaries of the Creditor Trust treated as the grantors and owners of the Creditor Trust; and

WHEREAS, any reference herein to a holder of an interest in the Creditor Trust means a holder recorded on the official register maintained by the Trustee (the “Register”) and shall not mean any beneficial owner not recorded on such official registry.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and in the Plan, the Debtors and the Trustee agree as follows:

ESTABLISHMENT OF THE CREDITOR TRUST

1.1 Transfer of Property to Trustee; Assignment and Assumption of Claims.

a. Pursuant to the Plan, the Creditor Trust is hereby established on behalf, and for the benefit, of holders of the Allowed Claims specified in Section 2.2 of this Trust Agreement, to be treated as the grantors and deemed owners of the Creditor Trust. Upon the Effective Date of the Plan, (1) ~~if sufficient LEO Bonds have been released and Cash proceeds received~~, the Debtors shall transfer the Creditor Trust Initial Administrative Funding in the amount of \$100,000 to the Creditor Trust if sufficient LEO Bonds have been released and Cash proceeds received; provided that if sufficient LEO Bonds have not been released and Cash proceeds received, the First Lien Noteholders shall, in consultation with the Debtors and the Creditors Committee and with notice to the Trustee, fund the Creditor Trust Initial Administrative Funding with other cash available from the Noteholder Trust Assets or from such other source as agreed to by the Debtors and the Creditors Committee, in which case such alternative funds shall be transferred by the Debtors to the Creditor Trust, and (2) except as otherwise set forth in the Plan, the Debtors shall transfer, assign, and deliver to the Creditor Trust all of their right, title, and interest in each and every asset of the estates not otherwise distributed pursuant to the Plan, including all Causes of Action preserved by the Plan in section 5.10 (or otherwise), the Miscellaneous Assets and the Unencumbered Cash, free and clear of any lien, claim or interest in such property of any other person or entity (collectively, the “Trust Assets”), notwithstanding any prohibition of assignability under non-bankruptcy law. The transfer effected pursuant to this Section 1.1 includes, but is not limited to, all rights to assert, waive, or otherwise exercise any attorney-client privilege, work product protection

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or other privilege, immunity, or confidentiality provision vested in, or controlled by the Debtors and their estates. The Trustee agrees to accept and hold the Trust Assets in trust on behalf, and for the benefit, of holders of the Allowed Claims specified in Section 2.2 of this Trust Agreement, subject to the terms of this Trust Agreement and the Plan. Upon the transfer of the Trust Assets, the Trustee shall succeed to all of the Debtors' right, title and interest in the Trust Assets and the Debtors will have no further interest in or with respect to the Trust Assets or this Creditor Trust.

b. The Debtors hereby transfer and assign the Trust Assets to the Creditor Trust, for the benefit of the beneficiaries of the Creditor Trust, and the Trustee hereby assumes and agrees that all such Trust Assets will be transferred to and vest in the Creditor Trust in accordance with section 1141 of the Bankruptcy Code.

1.2 Treatment of Transfer of Trust Assets. As provided in the Plan, the Trust Assets shall be treated by all parties (including, without limitation, the Debtors, the Trustee and the beneficiaries of the Creditor Trust) for U.S. federal income tax purposes as being (i) a transfer of the Trust Assets directly to the beneficiaries of the Creditor Trust followed by (ii) the transfer by the beneficiaries of the Creditor Trust to the Creditor Trust of the Trust Assets in exchange for beneficial interests in the Creditor Trust for the benefit of such beneficiaries (the "Creditor Trust Interests"). The Creditor Trust will be treated as a grantor trust for U.S. federal tax purposes and, to the extent permitted under applicable law, for state and local income tax purposes. The beneficiaries of the Creditor Trust will be treated as the grantors and owners of their Pro Rata (by Class or category of Claim) portion of Creditor Trust Assets (as represented by such beneficiaries' Creditor Trust Interests) for U.S. federal income tax purposes.

1.3 Valuation of Trust Assets. The Trustee shall (to the extent the Trustee deems it necessary or appropriate in his reasonable discretion) determine the value of the Trust Assets as soon as possible after the Effective Date, and all parties, including the Trustee and beneficiaries of the Creditor Trust, shall consistently use this valuation for all U.S. federal income tax purposes, including for determining gain, loss, or tax basis.

1.4 Trustee. ~~The Trustee shall be as named~~ Alexandre Zyngier, of Batuta Capital Advisors LLC, is hereby appointed to serve as the Trustee and agrees to serve in such capacity upon the Effective Date of the Plan and pursuant to the terms of the Plan and this Trust Agreement. A successor Trustee shall be appointed as set forth in the preamble to this Trust Agreement, and any successor trustee appointed hereunder in the event the Trustee is removed, resigns or otherwise vacates the position pursuant to the Trust Agreement.

1.5 Ownership by Trustee. The Trustee shall promptly record or register in his or her name as trustee, or in the name or names of any nominee or person, in accordance with the terms hereof,

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ownership of all Trust Assets received by him or her as Trustee and comply with all provisions of law that may bear on the evidencing of ownership of and title to any portion of the Trust Assets as are necessary and appropriate and that the Trustee determines are in the best interests of the Creditor Trust. The Trustee shall use a custodian (such as a FDIC insured bank or a SIPC insured financial institution) to maintain the Cash, securities and similar investments of the Creditor Trust.

1.6 Name. The Creditor Trust shall be named and known as the Linc Chapter 11 Creditor Trust.

CREDITOR TRUST INTERESTS

2.1 Identification of Holders of Creditor Trust Interests. The record holders of Creditor Trust Interests shall be the holders of the Allowed Claims specified in Section 2.2 of this Trust Agreement, and shall be recorded and set forth in the Register expressly for such purpose. On the Effective Date or as soon as possible thereafter, the Debtors shall provide the Trustee with a Claims register or other document setting forth the names, addresses, any tax identification numbers (if known) and Claim amounts, and noting whether any such Claims are Disputed and whether any Disputed Claims are expected to become Allowed Claims and, if so, the expected Allowed amount. None of the Debtors, the Creditor Trust and the Trustee, members of the Creditor Trust Advisory Board, the Ad Hoc Noteholder Group, the Creditors' Committee or their respective advisors shall incur any liability in connection with the determination of the interests of the beneficiaries in the Creditor Trust and the size of the Claims Reserve Holdback unless such determination is based on their own fraud, gross negligence, or willful misconduct and not indemnified by this Trust Agreement. The Creditor Trust and the Trustee shall have the absolute and unconditional right to rely on the information provided by the Debtors for purposes of notices and distributions under this Trust Agreement and neither the Creditor Trust, the Trustee nor the members of the Creditor Trust Advisory Board shall incur any liability by relying on the information received under this Section 2.1.

2.2 Creditor Trust Interests. Holders of Allowed Claims will receive the Creditor Trust Interests specified below:

Class	Claim	Name of Creditor Trust Interest	Creditor Trust Interest is Payable From
	Administrative Claims	Claims Reserve Holdback Trust Interests	Claims Reserve Holdback
	Priority Tax Claims	Claims Reserve Holdback Trust Interests	Claims Reserve Holdback
	Professional Claims	Claims Reserve	Claims Reserve Holdback

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		Holdback Trust Interests	
1	Other Priority Claims	Claims Reserve Holdback Trust Interests	Claims Reserve Holdback
2	Other Secured Claims	Claims Reserve Holdback Trust Interests	Claims Reserve Holdback
3	First Lien Note Claims	Noteholder Trust Interests	Noteholder Trust Assets
5	General Unsecured Claims	GUC Trust Interests	GUC Trust Assets

For the avoidance of doubt, holders of Creditor Trust Interests will only be entitled to distributions from the assets or proceeds sources specified above. For example, a Class 5 holder would hold a GUC Trust Interest and would be entitled to distributions only from GUC Trust Assets or proceeds therefrom. All references in this Trust Agreement to holders of an interest in the Creditor Trust shall be read to mean holders of record as set forth in the Register and shall not mean any beneficial owner not recorded on the Register. The Creditor Trust Interests shall not be evidenced by certificates.

2.3 Transferability of Creditor Trust Interests. Subject to compliance with applicable law, the Creditor Trust Interests are transferable upon written notice to the Trustee prior to a final distribution or winding up of the Trust, provided, however, that neither the Creditor Trust nor the Trustee shall (i) list the Creditor Trust Interests on any national securities exchange or on the NASDAQ Stock Market, (ii) advertise to facilitate the transfer of the Creditor Trust Interests, (iii) market the Creditor Trust Interests or (iv) collect or publish prices at which the Creditor Trust Interests may be transferred. Any transfer of Creditor Trust Interest will not be effective unless and until (a) the Trustee receives written notice of such transfer by the appropriate party, (b) the proposed transfer complies with all applicable securities laws, and (c) the Trustee receives any tax information reasonably requested by the Trustee from the transferee and transferor. The Trustee shall not be required to record any transfer in favor of any transferee, which in the sole discretion of the Trustee after consulting with professionals, is or might be construed to be ambiguous or to create uncertainty as to the holder of the Creditor Trust Interests. Until a transfer is recorded in the books and records maintained by the Trustee for purposes of identifying beneficiaries of the Creditor Trust, the Trustee may nevertheless make distributions and send communications to beneficiaries of the Creditor Trust as though he has no notice of any such transfer, and in doing so the Trustee shall be fully protected and incur no liability to any purported transferee or any other entity.

2.4 Holders of Creditor Trust Interests Have No Rights in Connection with Administration of the Creditor Trust. Except as provided in the Plan, this Trust Agreement grants exclusive authority over administration of the Creditor Trust to the Trustee; accordingly, the holders of Creditor Trust Interests

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have no voting rights and no rights to administer the Creditor Trust except with respect to the appointment of the Trustee and any successor, as set forth below.

PURPOSE, AUTHORITY, LIMITATIONS, DISTRIBUTIONS AND DUTIES

3.1 Purpose of the Creditor Trust. The Creditor Trust shall be established for the primary purpose of liquidating the Trust Assets and distributing the proceeds to holders of Creditor Trust Interests, in accordance with U.S. federal income tax laws, 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 Creditor Trust. Accordingly, the Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the Trust Assets, make timely distributions and not unduly prolong the duration of the Creditor Trust. The liquidation of the Trust Assets may be accomplished either through the sale of Trust Assets (in whole or in combination), including the sale of any rights of action, or through the prosecution or settlement of any rights of action, or otherwise.

3.2 Authority of Trustee. In connection with the administration of the Creditor Trust, except as set forth in this Trust Agreement or the Plan, the Trustee is authorized to perform any and all acts necessary or desirable to accomplish the purposes of the Creditor Trust. Except as otherwise provided in the Plan, nothing in this Trust Agreement shall require the Trustee to file any accounting or seek approval of any court with respect to the administration of the Creditor Trust, or as a condition for managing any payment or distribution out of the Trust Assets, although the Trustee may seek approval of the Bankruptcy Court for any such action. Without limitation, but subject to the foregoing and the provisions of the Plan, the Trustee shall be expressly authorized to:

- a. hold legal title (on behalf of the Creditor Trust as Trustee, but not individually) to any and all rights of the holders of the Creditor Trust Interests in or arising from the Trust Assets, including but not limited to, collecting, receiving any and all money and other property belonging to the Creditor Trust and the right to vote any claim or interest in a case under the Bankruptcy Code and receive any distribution therein; provided, however, the Trustee shall have the power to cause legal title (or evidence of title) to any of the Trust Assets to be held by any nominee, on such terms and in such manner as the Trustee may determine;
- b. perform the duties, exercise the powers, and assert the rights of a trustee under the Bankruptcy Code (including, but not limited to, Sections 704, 544, 108 and 1106) and be a representative of the Estates for purposes of Section 1123 of the Bankruptcy Code, including, without limitation, commencing, prosecuting or settling litigation, enforcing contracts, and asserting claims, defenses, offsets and privileges;
- c. with respect to the Trust Assets, hold the attorney-client privileges (including any work-product privileges or similar evidentiary protections) of all of the Debtors and their chapter 11 estates, all

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concomitant privileges, the right to assert (or waive) any immunity, privilege or right of confidentiality or privacy of the Debtors or their Estates, in the Trustee's sole discretion;

- d. protect and enforce the rights to the Trust Assets by any necessary or appropriate means, including, without limitation, by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;
- e. compromise, adjust, arbitrate, sue on or defend, pursue, prosecute, file, abandon, compromise, settle or otherwise resolve, claims and rights of action in favor of or against the Debtors' estates, the Creditor Trust and the Trustee, including (without limitation) those based upon Sections 544, 547, 548, 549, 550, 551 or 553(b) of the Bankruptcy Code, as the Trustee shall deem advisable, and to take any action necessary or appropriate to the foregoing;
- f. avoid and recover transfers of the Debtors' property as may be permitted by the Bankruptcy Code or applicable state law, including, without limitation, those identified in the Disclosure Statement;
- g. assert any and all rights under any insurance policies that indemnify or otherwise insure the Debtors and/or their agents, and any recoveries thereunder, including (but not limited to) casualty, life, fiduciary liability, employment liability, and managerial liability without regard to any deductibles or self-insured retentions;
- h. pursue insurance companies that insured the Debtors, for bad faith refusal to insure, for statutory relief, and/or for relief for violations of an insurance agreement;
- i. determine and satisfy any and all liabilities created, incurred or assumed by the Creditor Trust;
- j. file all tax and information returns, if any, with respect to the Creditor Trust and pay taxes payable by the Creditor Trust, if any, including income taxes, ad valorem taxes and employment taxes;
- k. exercise any and all rights afforded a trustee under Section 505 of the Bankruptcy Code to request a prompt determination of the state and federal tax liabilities of the Debtor, whether such liabilities were incurred prior to the Petition Date or during the pendency of the Debtor's Chapter 11 Case;
- l. pay any expense incurred by the Creditor Trust or the Trustee in the course of administering the Creditor Trust;
- m. at the expense of the Creditor Trust, obtain bonds or insurance coverage with respect to the liabilities and obligations of the Trustee under this Trust Agreement (including, but not limited to, in the form of an errors and omissions policy or otherwise in the discretion of the Trustee);
- n. obtain bonds or insurance coverage with respect to real and personal property which may become Trust Assets, if any;
- o. retain and pay legal counsel to the Creditor Trust for any reason, including to aid in the administration of the Trust, to prosecute or defend any claims or rights of action that constitute the Trust Assets, and to perform such other functions as may be appropriate. The Trustee may

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commit the Creditor Trust to indemnify any such parties in connection with the performance of services. A law firm or attorney shall not be disqualified from serving as counsel to the Creditor Trust solely because of its prior retention by an official committee or any other party in interest in the Chapter 11 Cases. Notwithstanding anything else to the contrary in this agreement, to further the Trust's purpose of liquidating the Trust Assets, the Trustee may (for example, to secure counsel under a contingency fee or hybrid fee arrangement) pledge, encumber, hypothecate, convey, and/or borrow against Trust Assets;

- p. retain and pay accountants to perform any work, including such reviews and/or audits of the financial books and records of the Creditor Trust as may be appropriate and to prepare and file any tax returns or information returns for the Creditor Trust as may be required. The Trustee may commit the Creditor Trust to indemnify any such parties in connection with the performance of services;
- q. retain and pay professionals to assist the Trustee in carrying out the powers and duties of the Trustee under this Trust Agreement. The Trustee may commit the Creditor Trust to indemnify any such parties in connection with the performance of services. A professional shall not be disqualified from rendering services on behalf of the Creditor Trust solely because of its prior retention by an official committee or any other party in interest in the Chapter 11 Cases;
- r. employ one or more employees to assist the Trustee in carrying out the powers and duties of the Trustee under this Trust Agreement. The Trustee may commit the Creditor Trust to, and shall pay, all such employee's compensation, wages or salary in the amounts he or she shall determine to be appropriate. If the Trustee employs employees pursuant to this Section, the Trustee shall establish payroll procedures and pay any and all federal, state or local tax withholding required under applicable law with respect to any such employees, obtain worker's compensation insurance and take all other actions he or she deems necessary or appropriate to effectuate the provisions of this Section, including establishing and adopting or ceasing to provide any employee benefits;
- s. invest any moneys held as part of the Creditor Trust in accordance with the terms of Section 4.6 hereof, limited to such investments that are consistent with the Creditor Trust's status as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d);
- t. request any appropriate tax determination with respect to the Creditor Trust, including, without limitation, a determination pursuant to Section 505 of the Bankruptcy Code;
- u. seek the examination of any entity under the provisions of Bankruptcy Rule 2004 or any other similar process;
- v. compromise, adjust, arbitrate, sue on, defend, pursue, prosecute, abandon, settle, compromise, or otherwise deal with, in accordance with the terms hereof, any actions in favor of or against the Debtors (that are included in Trust Assets), the Creditor Trust or the Trustee;
- w. obtain an estimation of any claims, including contingent or unliquidated claims, under the Bankruptcy Code;

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- x. sell, auction, lease, rent, encumber or transfer any Trust Assets, consistent with the purposes of the Creditor Trust, as the Trustee shall deem advisable, and to take any and all actions necessary or appropriate to accomplish the foregoing;
- y. except as otherwise provided in the Plan, abandon any Trust Assets that cannot be sold or otherwise disposed of for value and whose distribution to holders of Creditor Trust Interests would not be feasible or cost-effective based on the judgment and discretion of the Trustee;
- z. file with the Bankruptcy Court the reports and other documents required by the Plan and/or Confirmation Order, or as otherwise required by the Bankruptcy Code;
- aa. appear in, defend, or otherwise be heard as a party in interest in (i) appeals from the order confirming the Plan and any proceedings related thereto; (ii) proceedings related to the enforcement or interpretation of the Plan or the ~~Creditor~~ Trust Agreement; (iii) proceedings related to modifications or amendments to the Plan or the ~~Creditor~~ Trust Agreement; (iv) proceedings related to the establishment and administration of the Creditor Trust; and (v) proceedings related to the allowance of claims for compensation or expenses of counsel, accountants, professionals or employees employed by the estate, the Debtor, the Creditor Trust Advisory Board or the Creditor Trust;
- bb. file motions with the Bankruptcy Court seeking instruction or approval of any matter affecting the administration of the Creditor Trust, provided that the Trustee shall not be required to obtain such approval to the extent any proposed action or inaction is authorized by this Trust Agreement;
- cc. take or refrain from taking any and all actions the Trustee reasonably deems necessary for the continuation, protection and maximization of the Trust Assets or to carry out the purposes hereof; and
- dd. retain and employ any professionals or employees, and compromise or abandon litigation, as provided herein, in each case, without approval of the Bankruptcy Court.

3.3 Limitation of Trustee's Authority; Advisory Board Approval.

a. A three-member Creditor Trust advisory board (the "Creditor Trust Advisory Board") shall be formed, with one member initially appointed by holders of a majority of the principal amount of the First Lien Notes, as reflected in the First Lien Indenture Trustee's books and records as of the Distribution Record Date, one member initially appointed by the Creditors Committee, and one member being the Trustee. Any vacancy on the Creditor Trust Advisory Board, other than that of the Trustee, shall be filled by (a) if the vacancy is caused by the departure of the member appointed by holders of a majority of the principal amount of the First Lien Notes, a member appointed by the holders of Noteholder Trust Interests representing a majority of the principal amount of the First Lien Notes, as reflected in the First Lien Indenture Trustee's books and records as of the Distribution Record Date, or (b) if the vacancy is caused by the departure of the member appointed by the Creditors Committee, the

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unanimous vote of the former members of the Creditors Committee; provided that if such vacancy is not filled within 20 days of its occurrence, the Trustee shall appoint such member.

b. Notwithstanding anything herein to the contrary, the Trustee shall not engage in any trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Creditor Trust, shall not take actions inconsistent with the orderly liquidation of the Trust Assets and distributions to beneficiaries as are required by applicable law, and shall not take actions inconsistent with the Plan. The Trustee shall not engage in any investment or activity inconsistent with the treatment of the Creditor Trust as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d).

c. The Trustee shall not commingle any of the Trust Assets with his or her own property or the property of any other person.

d. Neither the Creditor Trust nor the Trustee shall take any action that would result in the Creditor Trust becoming subject to registration as an “investment company” pursuant to the Investment Company Act of 1940, as amended.

e. The Trustee shall have all the rights, powers and duties necessary to carry out its responsibilities under the Plan and this ~~Creditor~~ Trust Agreement, subject to the advice and, as set forth herein, the approval, of the Creditor Trust Advisory Board. The rights and powers of the Trustee, including payment of compensation and reimbursement of expenses for the Trustee or any professionals or employees employed by the Trustee, shall only be limited to the extent, and in the manner provided in, the Plan. The Trustee may obtain the Creditor Trust Advisory Board’s advice for any action by email, without a meeting, provided that the Trustee shall notify each member of the Creditor Trust Advisory Board by email of his or her request for advice simultaneously, and advice shall be deemed to have been provided pursuant to majority vote of the Creditor Trust Advisory Board upon the Trustee’s receipt of return emails from at least two members of the Creditor Trust Advisory Board after a period of time reasonable under the circumstances. If the Trustee determines, in his or her sole discretion, that a meeting of the Creditor Trust Advisory Board should be held or advice should be obtained on an emergency basis, the Trustee shall be entitled to convene a meeting of the Creditor Trust Advisory Board upon 24-hours’ notice, and the Trustee shall be entitled to obtain advice by email upon 24-hours’ notice.

f. In the event of a dispute between the Trustee and the Creditor Trust Advisory Board that cannot be consensually resolved, the Trustee shall bring the matter before the Bankruptcy Court for final resolution after notice and hearing.

g. No member of the Creditor Trust Advisory Board (excluding the Trustee) shall consult on, or participate in a decision regarding, any matter where the Trust is adverse to their or their

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client's direct interest (whether as mechanic/materialmen or noteholder), including but not limited to any disputes between lienholders regarding their respective lien priorities with respect to specified Trust Assets. For the avoidance of doubt, this subsection shall not preclude the involvement, consultation or participation of a member of the Creditor Trust Advisory Board in actions or decisions by the Trustee, including with respect to the resolution or objection of claims, the outcome of which may have an indirect impact on their or their client's interests.

3.4 Books and Records.

a. The Trustee shall maintain in respect of the Creditor Trust and the holders of Creditor Trust Interests books and records relating to the Trust Assets and income of the Creditor Trust and the payment of expenses of, and liabilities of claims against or assumed by, the Creditor Trust in such detail and for such period of time as may be necessary to enable him or her to make full and proper accounting in respect thereof.

b. The Trustee shall take such steps as he or she deems necessary to maintain the separateness of the Claims Reserve Holdback, Noteholder Trust Assets and GUC Trust Assets, as well as proceeds therefrom. Such steps may include, at the discretion of the Trustee, maintaining separate bank accounts or separate book entries for each such category of Trust Assets.

c. The members of the Creditor Trust Advisory Board may obtain information relating to the management of the Trust Assets upon reasonable written notice to the Trustee, subject to applicable privileges, confidentiality requirements and applicable law. A holder of a Creditor Trust Interest may obtain information relating to the management of the Trust Assets (i) for purposes that, in the reasonable discretion of the Trustee, are reasonably related to such holder's interests as holder, (ii) if access is reasonably requested during normal business hours, (iii) if such holder has provided written notice to the Trustee at least 10 days prior to the date it seeks access to information, (iv) provision of such information does not constitute an undue burden on the Trustee, ~~and~~ (v) provision of such information is not, in the reasonable discretion of the Trustee, detrimental to the Creditor Trust, (vi) provision of such information would not, in the discretion of the Trustee, conflict with any privilege, confidentiality undertaking, or applicable law, and (vii) all costs associated with such request are paid in advance by such requesting party. The Trustee may require, to the extent he or she deems it necessary or appropriate, that any holder requesting information enter into a confidentiality agreement satisfactory in form and substance to the Trustee prior to obtaining any information. ~~Nothing~~For the avoidance of doubt, nothing in this Trust Agreement provides any holder with a right to review, inspect, seek discovery of or otherwise obtain any information that is privileged or subject to a third party's rights of privacy or confidentiality.

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3.5 Additional Powers. Except as otherwise set forth in this Trust Agreement or in the Plan, and subject to U.S. federal tax laws governing liquidating trusts and the retained jurisdiction of the Bankruptcy Court as provided for in the Plan, but without prior or further authorization, the Trustee may control and exercise authority over the Trust Assets and over the protection, conservation and disposition thereof, including the creation of additional entities and transfers of Trust Assets to those entities.

3.6 Disputed Claims.

a. Subject to the limitations provided in the Plan, the Trustee on behalf of the Creditor Trust shall have the sole right to object to the allowance of any Claims provided for under the Plan. The Trustee shall have the authority to compromise, settle or otherwise resolve all objections, for any Claim filed (or scheduled if no Claim is filed) in the amount of \$25,000 or less without approval of the Bankruptcy Court or notice to the Creditor Trust Advisory Board. For all Claims in excess of \$25,000, the Trustee shall provide the Creditor Trust Advisory Board with seven days² written notice of any proposed settlement. If no objection is served on the Trustee within seven days of the date of such notice, the Creditor Trust Advisory Board shall be deemed to have consented to such settlement and the Trustee may settle such Claim without additional approval of any other person or entity; provided however, that if the Trustee obtains approval of the Creditor Trust Advisory Board prior to the expiration of such seven-day period regarding any such settlement, then the Trustee may settle such Claim immediately. If the Creditor Trust Advisory Board objects to any proposed settlement, the Trustee shall either (i) withdraw the settlement; or (ii) bring the matter before the Bankruptcy Court for final resolution after notice and hearing. Unless otherwise ordered by the Bankruptcy Court, the Trustee shall file and serve all objections to Claims no later than (i) 120 days after the later of (a) the Effective Date; or (b) the date on which a proof of claim, proof of interest or request for payment is filed with the Bankruptcy Court, (ii) as agreed to by the Holder of the Claim and Trustee with the consent of the Creditor Trust Advisory Board or (iii) such other date as may be approved by the Bankruptcy Court upon the Trustee's motion.

b. The Trustee shall establish one or more reserves for the treatment of Disputed Claims (each a "Disputed Claims Reserve"). Each Disputed Claims Reserve shall be either (a) held in a separate bank account from all other funds held by the Creditor Trust/Trustee or (b) segregated by book entry in the Trustee's accounting records. In no event shall reserves for Disputed Claims that are Administrative Claims, Priority Tax Claims, Professional Claims, Other Priority Claims or Other Secured Claims be commingled with reserves established for Disputed Claims in Class 5, and, subject to the Trustee's reasonable discretion, separate Disputed Claims Reserves shall be established for such Disputed Claims. The Trustee shall deposit into each Disputed Claims Reserve an amount equal to the

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Pro Rata share of the Trust Assets allocable to the Disputed Claims being reserved for, in accordance with the distribution scheme contemplated in the Plan, as if such Claims were Allowed Claims. Amounts deposited into the Disputed Claims Reserves shall be held in trust for the benefit of the holders of Disputed Claims pending a determination of their entitlement thereto under the terms of the Plan. Once a Disputed Claim is determined by Final Order or settlement to be an Allowed Claim, the Trustee shall pay (subject to the Plan and Confirmation Order, and in accordance with the distribution mechanics set forth herein) the Allowed Amount of such Claim without further approval from or notice to any person or entity. Any amounts remaining in any Disputed Claims Reserve established for Disputed Claims that are Administrative Claims, Priority Tax Claims, Professional Claims, Other Priority Claims or Other Secured Claims following final adjudication or settlement of such Disputed Claims shall become Noteholder Trust Assets. Any amounts remaining in any Disputed Claims Reserve established for Disputed Claims in Class 5 following final adjudication or settlement of such Disputed Claims shall become GUC Trust Assets.

3.7 Distributions; Withholding.

a. Except as otherwise provided in the Plan, the Trustee shall make distributions of Cash to holders of Creditor Trust Interests (or, in the discretion of the Trustee and by agreement with a holder or holders of Creditor Trust Interests, Trust Assets in lieu of Cash), as applicable, within a reasonable time after liquidation of all assets of the Creditor Trust and payment, or at the discretion of the Trustee reservation, of final trust expenses and reasonable administrative and Plan wind-down expenses. Subject to the Plan, the Trustee may, at the Trustee's discretion, make interim distributions to holders of beneficial interests in the Creditor Trust and shall make interim distributions to holders of beneficial interests in the Creditor Trust every three months beginning on the date that is three months after the Effective Date (each distribution, a "Quarterly Distribution"); provided, that the Trustee may, with the consent of the Creditor Trust Advisory Board, choose not to make any Quarterly Distribution that the Trustee determines is not in the best interests of the Creditor Trust. Interest shall not accrue on any amounts not distributed. The Trustee shall make any and all distributions in accordance with this Trust Agreement. Notwithstanding the foregoing, at least annually commencing no later than the first anniversary of the Effective Date, the Trustee shall make distributions to holders of Creditor Trust Interests of all net proceeds, if any, from the sale of assets and all of the Trust's net income, if any, less amounts that are reasonably necessary to maintain the value of the Trust's assets or to meet claims and contingent liabilities (including any amounts deposited into any Disputed Claims Reserve in accordance with this Trust Agreement). At the option of the Trustee, any payment to be made hereunder may be made by a check, wire transfer or other method of payment.

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b. Distributions to holders of Creditor Trust Interests (other than Noteholder Trust Interests) shall be made by the Trustee to such holders (a) at the addresses set forth on the Register delivered to the Trustee in accordance with Section 2.1 of this Trust Agreement, (b) at the addresses set forth in any written notices of address changes delivered to the Trustee after the Effective Date, or as otherwise agreed by the Trustee and the holder of a Creditor Trust Interest. The Trustee is not obligated to make any effort to determine the correct address of any holder of a Creditor Trust Interest.

c. Distributions on account of Noteholder Trust Interests shall be made by the Trustee to (i) the First Lien Indenture Trustee, (ii) with the prior written consent of the First Lien Indenture Trustee, by means of book-entry exchange through the facilities of the Depository Trust & Clearing Corporation and its successors and assigns (“DTCC”) in accordance with DTCC’s customary practices, or (iii) as otherwise directed by the First Lien Indenture Trustee. If a distribution is made to the First Lien Indenture Trustee, the First Lien Indenture Trustee, in its capacity as a distribution agent, shall administer the distribution in accordance with the Plan and the First Lien Indenture. Nothing herein shall be deemed to impair, waive or extinguish any right of the First Lien Indenture Trustee with respect to any charging lien against distributions.

d. Before receiving a distribution of Cash or Trust Asset, each holder of Creditor Trust Interests shall furnish, in writing, its name, address, tax identification number, and completed IRS Form W-9 or appropriate IRS Form W-8, as applicable, to the Trustee within 60 days of a written request from the Trustee. Notwithstanding the foregoing, each individual holder of Prepetition Notes is not required to provide the Trustee with an IRS Form W-9 or appropriate IRS Form W-8, as applicable, and, instead, this requirement shall be deemed satisfied by the receipt of either an IRS Form W-9 or appropriate IRS Form W-8, as applicable, from the DTCC as provided by the First Lien Indenture Trustee. The Trustee of the Creditor Trust shall be entitled to withhold from any distribution any and all amounts that the Trustee determines are required to be withheld by any law, regulation, rule, ruling, order, directive or other governmental requirement.

3.8 Creditor Trust Expenses. The Trustee shall use best efforts to fund and/or charge all expenses of the Creditor Trust from the Trust Assets to which such activities and costs relate; provided that the Creditor Trust Initial Administrative Funding and, when such funding is exhausted, the Remaining Creditor Trust Assets shall be available in all instances to pay such costs and expenses that cannot be reasonably allocated to other Trust Assets.

3.9 Reporting by the Trustee.

a. U.S. Federal Income Tax. Subject to definitive guidance from the Internal Revenue Service (the “IRS”) or a court of competent jurisdiction to the contrary (including the receipt by

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the Trustee of a private letter ruling if the Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Trustee), the Trustee shall file returns for the Creditor Trust as a grantor trust pursuant to Treasury Regulations Section 1.671-4(a).

b. Other Reporting. The Trustee shall file (or cause to be filed) any other statements, returns or disclosures relating to the Creditor Trust that are required by any governmental authority.

3.10 Compliance with Laws. The Trustee may rely on the advice of counsel or other professionals to ensure that any and all distributions of Trust Assets and proceeds of borrowings, if any, shall be in compliance with applicable laws, including, but not limited to, applicable federal and state securities laws.

THE TRUSTEE OF THE CREDITOR TRUST

4.1 Generally. The Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of this Creditor Trust and not otherwise, except that the Trustee may deal with the Trust Assets as permitted herein, subject only to any limitations imposed under the Plan.

4.2 Responsibilities of Trustee. The Trustee shall, in an expeditious but orderly manner, administer, liquidate and convert to Cash and/or distribute the Trust Assets, make timely distributions, make any payments required for reasonable administrative and Plan wind-down expenses, including amounts reasonably required by the Debtors to wind down their affairs and effectuate the dissolution of each corporate entity, in each case in accordance with the Plan, and not unduly prolong the duration of the Creditor Trust. In so doing, the Trustee shall be entitled to exercise reasonable business judgment in liquidating the Trust Assets. The liquidation of the Trust Assets may be accomplished through the sale or transfer of Trust Assets (in whole or in combination), including the sale of any right of action or through the prosecution or settlement of any or all rights of action, or otherwise. In connection therewith, and without limiting any other power or grant of authority under this Trust Agreement, the Trustee shall have the power to (a) prosecute for the benefit of the Creditor Trust all claims, rights and rights of action transferred, or assigned or contributed, to the Creditor Trust whether or not such suits are brought in the name of the Creditor Trust, the Trustee, the Debtor, the estate or otherwise for the benefit of the holders of Creditor Trust Interests, (b) liquidate the Trust Assets, such as through the sale of assets (in whole or in combination thereof), and (c) otherwise perform the functions and take the actions permitted or required by the Plan, under applicable law, by this Trust Agreement or in any other agreement executed by the Trustee. Any and all proceeds generated from the Trust Assets shall be the

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property of the Creditor Trust, as contemplated by and subject to the applicable provisions of the Plan and this Trust Agreement.

4.3 Standard of Care; Indemnification, Exculpation.

a. None of the Trustee or the attorneys, accountants, professionals, employees or any other duly designated agent or representative of the Trustee or the Creditor Trust Advisory Board shall be personally liable, and no holder of a Creditor Trust Interest shall have a right to institute any action or proceeding against such parties, for (i) claim, expense, liability or other obligation asserted against the Creditor Trust or (ii) any negligence or any act or omission taken or omitted to be taken in the capacity of Trustee or attorney, accountant, professional, employee or other agent or representative of the Creditor Trust, other than acts or omissions resulting from willful misconduct, gross negligence or fraud as determined by a Final Order, or solely in the case of the Trustee, breach of fiduciary duty. Any act or omission taken with the approval of the Bankruptcy Court will be conclusively deemed not to constitute gross negligence, willful misconduct, fraud or a breach of fiduciary duty.

b. The Trustee may, in connection with the performance of his or her functions, and in his or her sole discretion, consult with his or her attorneys, accountants and professionals, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such persons. Notwithstanding such authority, the Trustee shall not be under any obligation to consult with his or her attorneys, accountants or professionals, and their determinations shall not result in the imposition of liability upon the Trustee.

c. The Creditor Trust shall indemnify and hold harmless the Trustee (and his or her successors), the Creditor Trust Advisory Board, the members of the Creditor Trust Advisory Board, and the Trustee's attorneys, accountants, professionals, employees and all duly designated agents and representatives of the Trustee or the Creditor Trust (in their capacity as such), from and against and in respect of all liabilities, losses, damages, claims, costs and expenses, including, but not limited to attorney's fees and costs arising out of or due to their actions or omissions, or consequences of their actions or omissions with respect to the Creditor Trust or the implementation or administration of the Creditor Trust; provided, however, that no such indemnification will be made to such persons for actions or omissions as a result of willful misconduct, gross negligence or fraud.

d. If the Trustee, the Creditor Trust Advisory Board, or members of the Creditor Trust Advisory Board become involved in any action, proceeding, or investigation in connection with any matter arising out of or in connection with this Trust Agreement or the affairs of the Creditor Trust or the Creditor Trust Advisory Board, the Creditor Trust shall periodically advance or otherwise reimburse on demand the Trustee's or the Creditor Trust Advisory Board's reasonable legal and other

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expenses (including, without limitation, the cost of any investigation, and attorney's fees, disbursements, and related expenses) incurred in connection therewith, but the Trustee shall be required to repay promptly to the Creditor Trust the amount of any such advanced or reimbursed expenses paid to the Trustee to the extent that it shall be determined by final adjudication that the Trustee engaged in fraud, willful misconduct, or gross negligence in connection with the affairs of the Creditor Trust with respect to which such expenses were paid. The Creditor Trust may indemnify and hold harmless the attorneys, accountants, professionals, employees and agents of the Creditor Trust to the same extent as provided herein.

e. The provisions of this Section shall remain available to and be binding on any former Trustee or the estate of any deceased Trustee, and to any successor Trustee.

f. The Trustee shall only be entitled to indemnification from the Creditor Trust under this Section to the extent that the Trustee is not covered by insurance purchased by the Trust, if any.

g. The Trustee and his attorneys, accountants, professionals, employees or any other duly designated agent or representative of the Trustee or the Creditor Trust Advisory Board shall be and hereby are exculpated by all Persons and entities, including without limitation, holders of Claims and other parties in interest, from any and all claims arising out of the discharge of the powers and duties conferred upon said parties pursuant to or in furtherance of this Trust Agreement, the Plan, or any order of the Bankruptcy Court or other applicable law or otherwise, except for actions taken or not taken, from and after the Effective Date only to the extent determined by a Final Order to be solely due to their own respective gross negligence, willful misconduct, fraud, or solely in the case of the Trustee, breach of fiduciary duty.

4.4 Reliance by Trustee. The Trustee may rely, and shall be fully protected in acting or refraining from acting, on any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document that the Trustee has no reason to believe to be other than genuine and to have been signed or presented by the proper party or parties or, in the case of facsimiles or e-mails to have been sent by the proper party or parties, and the Trustee may conclusively rely as to the truth of the statements and correctness of the opinions expressed therein. The Trustee may consult with counsel, and any opinion of counsel shall be full and complete authorization and protection in respect to any action taken or suffered by the Trustee in accordance therewith.

4.5 Reliance by Persons Dealing With the Creditor Trust. In the absence of actual knowledge to the contrary, any person dealing with the Creditor Trust shall be entitled to rely on the authority of the

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Trustee to act in connection with the acquisition, management, or disposition of Trust Assets and shall have no obligation to inquire into the existence of such authority.

4.6 Investment and Safekeeping of Trust Assets. Cash held pending distribution shall, to the extent permitted by applicable law, be invested by the Trustee in (a) a checking account at an FDIC or SIPC insured financial institution, (b) direct obligations of, or obligations guaranteed by, the United States of America (including without limitation United States Treasury Bills); (c) obligations of any agency or corporation that is or may hereafter be created by or pursuant to an Act of the Congress of the United States as an agency or instrumentality thereof; or (d) demand deposits or short-term certificates of deposit at any bank or trust company that the Trustee deems appropriate. The scope of any such permissible investments shall be limited to include only those investments, or shall be expanded to include any additional investments, as the case may be, that a liquidating trust, within the meaning of Treasury Regulations Section 301.7701-4(d) may be permitted to hold, pursuant to any amendment or addition to the Internal Revenue Code of 1986, as amended (the “Code”) or to the Treasury Regulations, or any modification in IRS guidelines whether set forth in IRS rulings, other IRS pronouncements, or otherwise.

4.7 Expense Reimbursement and Compensation.

a. Notwithstanding anything in the Plan, the Trust Assets shall be subject to the claims of the Trustee, and the Trustee is entitled to reimbursement out of Cash in the Creditor Trust, for (i) the Trustee’s actual out-of-pocket expenses including, as examples, agents and professionals, and (ii) from any and all loss, liability, expense, or damage which is indemnified in this agreement. The Trustee shall be entitled to compensation at his or her standard hourly rate as set forth in **Exhibit A** hereto, or as otherwise set forth in the Plan and Confirmation Order.

b. If the Cash in the Creditor Trust is at any time insufficient to compensate and reimburse the Trustee, including any professionals and other third parties retained by the Trustee, for any amounts to which they are entitled hereunder and if the Trustee shall be unable to borrow funds sufficient for such compensation and reimbursement in accordance with the terms of this Trust Agreement, then the Trustee may reduce to Cash that portion of the Trust Assets necessary so as to effect such compensation and reimbursement.

4.8 Bond. The Trustee shall not be required to post a bond.

4.9 Confidentiality. The Trustee shall, while serving as Trustee under this Trust Agreement, following the termination of this Trust Agreement or following the earlier of his or her removal or resignation hereunder, hold strictly confidential and not use for personal gain any material, non-public

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information of or pertaining to any entity to which any of the Trust Assets relates or of which he has become aware in his or her capacity as Trustee.

SUCCESSOR TRUSTEE

5.1 Resignation. The Trustee may resign by filing not less than 30 days' prior written notice of the proposed effective date of resignation with the Bankruptcy Court. If the Trustee resigns, the holders of Noteholder Trust Interests representing a majority of the principal amount of the First Lien Notes, as reflected in the First Lien Indenture Trustee's books and records as of the Distribution Record Date, shall be authorized to appoint a successor Trustee; provided that ~~the First Lien Noteholders~~ such holders shall consult with the member of the Creditor Trust Advisory Board selected by the Creditors Committee (or former members thereof) prior to appointing such successor Trustee. The Trustee shall continue to serve as the Trustee after notice of resignation until the proposed effective date of such resignation unless the Bankruptcy Court otherwise determines or consents to an earlier effective date, which shall be the date that appointment of a successor Trustee becomes effective.

5.2 Removal. The Trustee may be removed by the Bankruptcy Court for Cause and upon reasonable notice. "Cause" means (i) fraud, willful misconduct or gross negligence in connection with the affairs of the Creditor Trust, (ii) such physical or mental disability as substantially prevents the Trustee from performing his or her duties as Trustee hereunder, or (iii) breach of a fiduciary duty or an unresolved material conflict of interest. The Trustee may be removed by the unanimous vote (excluding the vote of the Trustee) of the Creditor Trust Advisory Board without cause. If removed by vote, the Trustee shall be replaced by the vote of the holders of a majority of the principal amount of the First Lien Notes, as reflected in the First Lien Indenture Trustee's books and records as of the Distribution Record Date, in consultation with the member of the Creditor Trust Advisory Board selected by the Creditors Committee (or former members thereof).

5.3 Acceptance of Appointment by Successor Trustee. Any successor Trustee appointed hereunder shall execute and file with the Bankruptcy Court an instrument accepting such appointment in form satisfactory to the successor Trustee. Thereupon, such successor Trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts and duties of his or her predecessor in the Creditor Trust with like effect as if originally named herein; provided, however, that a removed or resigning Trustee shall, nevertheless, when requested in writing by the successor Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor Trustee under the Creditor Trust all the estates, properties, rights, powers, and trusts of such predecessor Trustee.

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5.4 Continuance of Trust. The death, resignation, or removal of the Trustee shall not operate to terminate the Creditor Trust created by this Trust Agreement or revoke any existing agency (other than the agency of the former Trustee as Trustee) created pursuant to the term of this Trust Agreement or invalidate any action taken by the Trustee. The Trustee agrees that the provisions of this Trust Agreement shall be binding upon and inure to the benefit of the Trustee and the Trustee's heirs, legal and personal representatives, successors or assigns, as the case may be. In the event of the resignation or removal of the Trustee, the resigning or removed Trustee shall, at the expense of the Creditor Trust, promptly (i) execute and deliver by the effective date of resignation or removal such documents, instruments, and other writings as may be reasonably requested by the successor Trustee to effect the termination of the resigning or removed Trustee's capacity under this Trust Agreement and the conveyance of the Trust Assets then held by the resigning or removed Trustee to the successor Trustee; (ii) deliver to the successor Trustee all documents, instruments, records, and other writings relating to the Creditor Trust as may be in the possession or under the control of the resigning or removed Trustee; and (iii) otherwise assist and cooperate in effecting the assumption of the resigning or removed Trustee's obligations and functions by the successor Trustee. The resigning or removed Trustee hereby irrevocably appoints the successor Trustee as attorney-in-fact and agent with full power of substitution for and in his or her name, place and stead to do any and all such acts that such resigning or removed Trustee is obligated to perform under this Section. Such appointment shall not be affected by the subsequent disability or incompetence of the Trustee making such appointment.

REPORTS TO HOLDERS OF CREDITOR TRUST INTERESTS

6.1 Securities Laws Reporting. Under section 1145 of the Bankruptcy Code, the issuance of Creditor Trust Interests under the Plan shall be exempt from registration under the Securities Act of 1933, as amended, and applicable state and local laws requiring registration of securities, if applicable.

6.2 Tax Reporting. Promptly following the end of each taxable year, the Trustee shall cause to be sent to each holder of a Creditor Trust Interest appearing on the Register during such year a statement setting forth each holder's share of items of income, gain, loss, deduction or credit for U.S. federal income tax returns (if any). Allocations of Creditor Trust taxable income shall be determined by reference to the manner in which an amount of Cash equal to such taxable income would be distributed (without regard to any restrictions on distributions described herein or in the Plan or Disclosure Statement) if, immediately prior to such deemed distribution, the Creditor Trust had distributed all of its other assets (valued for this purpose at their tax book value) to the holders of Creditor Trust Interests,

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taking into account all prior and concurrent distributions from the Creditor Trust. Similarly, taxable loss of the Creditor Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining Trust Assets. For this purpose, the tax book value of the Trust Assets shall equal their value on the Effective Date or, if later, the date such assets were acquired by the Creditor Trust, adjusted in either case in accordance with tax accounting principles prescribed by the Code, the Treasury Regulations and other applicable administrative and judicial authorities and pronouncements.

TERMINATION OF THE CREDITOR TRUST

7.1 Termination of the Creditor Trust. The Creditor Trust shall terminate after all Trust Assets have been fully resolved, abandoned or liquidated and the Trust Assets have been distributed in accordance with this Trust Agreement; provided, however, except in the circumstances set forth below, the Creditor Trust shall terminate no later than five years after the Effective Date. If warranted by the facts and circumstances provided for in the Plan, and subject to the approval of the Bankruptcy Court upon a finding that an extension is necessary for the purpose of the Creditor Trust, the term of the Creditor Trust may be extended, one or more times (not to exceed a total of four extensions, unless the Creditor Trust receives a favorable ruling from the IRS that any further extension would not adversely affect the status of the Creditor Trust as a grantor trust for U.S. federal income tax purposes), for a finite period, not to exceed three years at each extension, based on the particular circumstances at issue. Upon the occurrence of the termination of the Creditor Trust, the Creditor Trustee shall file with the Bankruptcy Court a report thereof, seeking discharge of the Creditor Trustee. If any Trust Assets are not timely claimed, (i) any such Noteholder Trust Assets will be redistributed to all other holders of Noteholder Trust Interests and (ii) any such GUC Trust Assets will be redistributed to all other holders of GUC Trust Interests, in each case pursuant to the terms hereof. The Trustee shall be entitled to take all steps necessary to terminate the Trust, as provided above, without further order of the Bankruptcy Court.

AMENDMENT AND WAIVER

8.1 Amendment and Waiver. Any substantive provision of this Trust Agreement may be amended or waived by order of the Bankruptcy Court or by a unanimous vote of the Creditor Trust

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Advisory Board upon notice to the Bankruptcy Court. Notwithstanding the foregoing, the Trustee, with the prior consent of the members of the Creditor Trust Advisory Board, may amend, supplement, or waive any provision of this Trust Agreement, without notice to or approval of the Bankruptcy Court, in order to: (i) cure any ambiguity, omission, defect, or inconsistency in this Trust Agreement; provided, that such amendments, supplements or waivers shall not be inconsistent with the terms of the Plan or the Confirmation Order or adversely affect the distributions to holders of Creditor Trust Interests or adversely affect the U.S. federal income tax status of the Creditor Trust as a “liquidating trust”; (ii) comply with any requirements in connection with the U.S. federal income tax status of the Creditor Trust as a “liquidating trust” and grantor trust; and (iii) comply with any requirements in connection with maintaining that the Creditor Trust is not subject to registration or reporting requirements of the Securities Act, the Exchange Act, the Trust Indenture Act, or the Investment Company Act. Notwithstanding this Section, any amendments to this Trust Agreement shall not be inconsistent either the Plan or with the purpose and intention of the Creditor Trust to liquidate in an expeditious but orderly manner the Trust Assets in accordance with the Plan and applicable U.S. federal income tax laws.

MISCELLANEOUS PROVISIONS

9.1 Intention of Parties to Establish a Liquidating Trust. This Trust Agreement is intended to create a liquidating trust for U.S. federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Trust Agreement may be amended to comply with the U.S. federal income tax laws governing liquidating trusts, which amendments may apply retroactively.

9.2 Cooperation and Further Assurances of the Debtors. The Debtors shall, upon reasonable request of the Trustee, execute, acknowledge, and deliver such further instruments and do such further acts as may be necessary or proper to transfer to the Trustee any portion of the Trust Assets intended to be conveyed in the form and manner provided for in the Plan and to vest in the Trustee the powers, instructions, or funds in trust hereunder. The Debtors, for themselves and any predecessor or successor entity, hereby disclaim and waive any and all rights to any reversionary interests in any of the Trust Assets. The Debtors shall relinquish to the Trustee all of the Debtors’ books and records.

9.3 Laws as to Construction; Jurisdiction of Bankruptcy Court. This Trust Agreement shall be governed and construed in accordance with the laws of the State of Texas, without giving effect to rules governing the conflict of laws, and federal bankruptcy law to the extent applicable. If the Chapter 11 Cases of the Debtors are pending or reopened, the Bankruptcy Court shall have exclusive jurisdiction

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to resolve any matters concerning the interpretation or enforcement of this Trust Agreement, and any disputes arising thereunder or in connection therewith between or among the Trustee and the Debtors, the Creditor Trust Advisory Board, any holder of any Creditor Trust Interest and any other party in interest.

9.4 Severability. If any provision of this Trust Agreement or the application thereof to any person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Trust 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 Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

9.5 Notices. 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:

If to the Trustee:

Alex Zyngier
Batuta Capital Advisors LLC
475 Park Ave South | 12th fl
New York, NY, 10016
azyngier@batutaadvisors.com
P: (212)726-6937
C: (914)565-9129

If to the Creditor Trust Advisory Board:

Carl Doré
Doré Law Group, P.C.
17171 Park Row, Suite 160
Houston, Texas 77084
carl@dorelawgroup.net
P: (281) 829-1555
F: (281) 200-0751

-and-

~~[Ad Hoc Appointee]~~

[Jamison Lyngstad](#)
[Whitebox Advisors LLC](#)
[3033 Excelsior Boulevard, Suite 300](#)
[Minneapolis, MN 55416](#)
[P: \(612\) 253 6015](#)

jlyngstad@whiteboxadvisors.com

If to the holders of Interests in the Creditor Trust:

For each holder, notices shall be sent to the address on such holder's proof of claim filed with the Court (or if no proof of claim has filed, the address shown for such claimant in the Debtors' schedules), unless such holder has since (1) filed a change of address notification with the Court, or (2) following the Effective Date, notified the Trustee in writing of such holder's change of address.

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

9.7 Relationship to the Plan. The principal purpose of this Trust Agreement is to aid in the implementation of the Plan and therefore this Trust Agreement incorporates the provisions of the Plan. If any provision of this Trust Agreement is found to be inconsistent with a provision of the Plan or the Confirmation Order, the provision of the Confirmation Order shall first control and thereafter the Plan, unless expressly reserved in this Trust Agreement as notwithstanding a Plan provision.

[Signature Page to follow]

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

LINC USA GP, on behalf of itself and the other Debtors party hereto

By: _____
Michael Mapp
President

TRUSTEE

By: _____
~~Alex~~Alexandre Zyngier
Trustee of the
Linc Chapter 11 Creditor Trust

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Exhibit A

Trustee Compensation

Time Period	Rate
First three (3) months following Effective Date	\$10,000 per month plus reasonable out of pocket expenses
Following first three (3) months	Subject to negotiation

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Document comparison by Workshare Professional on Friday, February 10, 2017
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Input:	
Document 1 ID	PowerDocs://DM/5403296/1
Description	DM-#5403296-v1-Linc_-_ (Original_Filed)_Creditor_Trust_Agreement_
Document 2 ID	PowerDocs://DM/5403269/1
Description	DM-#5403269-v1-Linc_-_ (Revised)_Creditor_Trust_Agreement_2_10_2017
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	60
Deletions	23
Moved from	2
Moved to	2
Style change	0
Format changed	0
Total changes	87

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