

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

WHITTAKER, CLARK & DANIELS, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 23-13575 (MBK)

(Jointly Administered)

CONSENT DECREE AND ENVIRONMENTAL SETTLEMENT AGREEMENT

¹ The Debtors in these chapter 11 cases, along with the last four digits of the Debtors' federal tax identification numbers, are: Whittaker, Clark & Daniels, Inc. (4760); Brilliant National Services, Inc. (2113); L. A. Terminals, Inc. (6800); and Soco West, Inc. (3400). The location of the Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is 100 First Stamford Place, Stamford, Connecticut 06902.

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I. RECITALS

WHEREAS, Stinnes Corp. (n/k/a DB US Holding Corporation (“DBUS”)) and certain of its affiliates entered into a master sale and purchase agreement with certain affiliates of Bain Capital L.P. (the “2003 MSPA”), which contemplated, in part, sales of certain of the Debtors’ assets to Brenntag North America, Inc., a then affiliate of Bain Capital L.P., and certain of its affiliates in exchange for cash and the assumption of certain liabilities, while certain defined asbestos and environmental liabilities remained with the Debtors;

WHEREAS, in December 2007, National Indemnity Company (“NICO”) purchased the equity in Brilliant National Services, Inc. (“Brilliant”) (which owned all of the equity of Whittaker, Clark and Daniels, Inc. (“WCD”) and Soco West, Inc., (“Soco”)) and L. A. Terminals, Inc. (“LAT”) from DBUS (the “2007 Acquisition”), pursuant to a stock purchase agreement, and shortly thereafter assigned the equity interests in Brilliant and LAT to its affiliate Ringwalt & Liesche Co.;

WHEREAS, in the 2007 Acquisition, NICO agreed to indemnify DBUS for, among other things, certain indemnification obligations arising under the 2003 MSPA;

WHEREAS, Brilliant, Soco, LAT, and WCD (collectively, the “Debtors”) filed voluntary petitions for relief under Title 11 of the United States Code (the “Bankruptcy Code”) on April 26, 2023 (the “Petition Date”) with the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court” or “Court”), which have been consolidated for procedural purposes and are being jointly administered under the case caption of *In re Whittaker, Clark & Daniels, Inc.*, Case No. 23-13575 (the “Bankruptcy

Cases”);

WHEREAS, the United States, on behalf of the United States Environmental Protection Agency (“EPA”), contends that Soco is liable under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601–9675, for certain costs incurred and to be incurred by the United States, on behalf of EPA, in response to releases and threats of releases of hazardous substances at or in connection with certain of the Debtor Sites (as defined below);

WHEREAS, the California Department of Toxic Substances (the “DTSC”) contends that Soco is liable for certain costs incurred and to be incurred by DTSC in response to releases and threats of releases of hazardous substances in connection with certain of the Debtor Sites;

WHEREAS on April 1, 2014, DTSC issued an Order to take Corrective Action Pursuant to Health and Safety Code Division 20, Chapter 6.8 to Soco related to the Service Chemical Site (as defined below), directing Soco to develop and implement a remedial action plan and perform necessary removal actions, Docket No. HWCA: P4-13/14-008 (the “Service Chemical CAO”);

WHEREAS, in *Orange County Water District v. Sabic Innovative Plastics US, LLC*, Case No. 30-2008-00078246-CU-TT-CXC (“*Sabic Innovative Plastics*”), the California Superior Court for the County of Orange (the “Superior Court”) issued a Statement of Decision on April 3, 2023 (the “Statement of Decision”) indicating that it was granting DTSC’s request for declaratory relief that Soco lacked sufficient cause for Soco’s decision to cease compliance with the Service Chemical CAO, which Soco disputes and

may appeal if resolution of this matter between DTSC and Soco is not reached in connection with the Bankruptcy Cases;

WHEREAS, the California State Water Resources Control Board (“State Water Board”) and California Regional Water Quality Control Board, Los Angeles Region (“Los Angeles Water Board,” and collectively, the “California Water Boards”) contend that Soco is liable for remediation obligations and certain oversight costs incurred and to be incurred in connection with discharge of waste and threatened discharge of waste, including but not limited to hazardous substances from certain of the Debtor Sites;

WHEREAS, in *Sabic Innovative Plastics*, the Superior Court issued the Statement of Decision, finding, among other things, Soco liable to the Orange County Water District (“OCWD”) for certain costs of investigating contamination from the Service Chemical Site under the Orange County Water District Act and the California Carpenter-Presley-Tanner Hazardous Substance Account Act, but finding that OCWD was not entitled to declaratory relief under the California Declaratory Relief Act. Due to the automatic stay in connection with the Bankruptcy Cases, the Superior Court has not yet entered judgment on the Statement of Decision as to Soco;

WHEREAS, OCWD contends that Soco is liable to OCWD for costs incurred and to be incurred by OCWD in response to contamination from the Service Chemical Site;

WHEREAS, OCWD has filed a proof of claim [Claim No. 54] (the “OCWD Proof of Claim”) against Soco;

WHEREAS, the State of Montana through the Montana Natural Resource Damage Program and the Montana Department of Environmental Quality (“Montana”) contends

that Soco is liable for natural resource damages and costs incurred and to be incurred by the State of Montana in response to releases and threats of releases of hazardous substances in connection with the Lockwood Solvent Site (as defined below);

WHEREAS, Montana has filed a proof of claim [Claim No. 58] (the “Montana Proof of Claim”) against Soco;

WHEREAS, the United States, on behalf of EPA, and Montana contend that the Debtors’ owned-site obligations and injunctive obligations at the Lockwood Solvent Site arising under the consent decree for the Lockwood Solvent Site, *United States of America et al. v. Soco West, Inc.*, No. CV-11-SS-BLG-RFC, D. Mont., entered by the District Court for the District of Montana on October 3, 2011, have priority over certain other obligations of the Debtors’ estates;

WHEREAS, the United States, on behalf of EPA, and Montana contend that there is an overlap of interests in the Montana Proof of Claim and the alleged priority of the claim of the United States, on behalf of EPA, at the Lockwood Solvent Site because Soco is obligated to both EPA and Montana to perform the Lockwood Environmental Response Trust Actions (as defined below) at the Lockwood Solvent Site, including certain remediation and operation and maintenance activities;

WHEREAS, the Government Environmental Creditors contend that some or all of the Berkshire Entities, the DBUS Entities, and Brenntag (each as defined below) could be liable to the Government Environmental Creditors under 42 U.S.C. § 9607(a), including *United States v. Bestfoods*, 524 U.S. 52 (1998), for some or all of the Debtor Sites or Purchased Entity Sites (each as defined below), in addition to the Government

Environmental Creditors' Claims against the Debtors or the Purchased Entities (as defined below);

WHEREAS, the Debtors disagree with the Government Environmental Creditors' contentions regarding environmental work obligations and owned-site obligations and but for this CD and Environmental Settlement Agreement, would dispute, in whole or in part, such contentions;

WHEREAS, the Berkshire Entities, the DBUS Entities, and Brenntag disagree with the Government Environmental Creditors' contentions regarding any liability under 42 U.S.C. § 9607(a) and *United States v. Bestfoods*, 524 U.S. 52 (1998) for some or all of the Debtor Sites or Purchased Entity Sites, and but for this CD and Environmental Settlement Agreement, would dispute, in whole or in part, such contentions;

WHEREAS, the Debtors and the Contributing Parties reached a settlement regarding the Estate Causes of Action set forth in that certain Settlement Agreement, dated September 3, 2024 (the "Contributing Parties Settlement Agreement") attached to the Debtors' settlement motion [Docket No. 1297] (the "Settlement Motion");

WHEREAS, the United States, on behalf of EPA, filed an objection to the Settlement Motion [Docket No. 1625] (the "U.S. Objection") and certain of the other Government Environmental Creditors filed objections to the Settlement Motion [Docket Nos. 1627, 1635–36] (collectively and together with the U.S. Objection, the "Government Environmental Creditor Settlement Objections");

WHEREAS, the Court held a hearing on the Contributing Parties Settlement Agreement and various objections, including the Government Environmental Creditor

Settlement Objections, on March 3, 2025 through March 6, 2025 [Docket Nos. 1842–45, 1856, 1870–71];

WHEREAS, the Debtors and the Government Environmental Creditors wish to resolve the remaining disputes with respect to the Government Environmental Creditor Settlement Objections, the OCWD Proof of Claim, the Montana Proof of Claim, and address other matters as provided herein;

WHEREAS, the Contributing Parties and the Government Environmental Creditors wish to resolve the remaining disputes with respect to any liability under 42 U.S.C. § 9607(a) and *United States v. Bestfoods*, 524 U.S. 52 (1998) and address other matters as provided herein;

WHEREAS, the Stipulated Allowed Claim Amount reflects a compromise amount that is—both in the aggregate and as apportioned between the Government Environmental Creditors as contemplated by this CD and Environmental Settlement Agreement—less than the amount of environmental response costs the Government Environmental Creditors expect to incur at the Debtor Sites (*i.e.*, their would-be alleged damages), both when aggregated together and with respect to each Government Environmental Creditor individually, and furthermore, the Government Environmental Creditors are agreeing to the Stipulated Allowed Claim Amount, both individually and collectively, as a compromise for the sole purpose of administering Soco’s Estate in the context of the Bankruptcy Cases pursuant to a Confirmed Plan consistent with the terms of this CD and Environmental Settlement Agreement;

WHEREAS, the treatment of liabilities provided for herein represents a compromise of the contested positions of the Parties that is entered into solely for purposes of this settlement, and the Parties reserve their legal arguments as to any issues involved in other matters;

WHEREAS, in consideration of, and in exchange for, the promises and covenants herein, including, without limitation, the covenants set forth in Paragraphs 32 and 37, and subject to the provisions of Paragraphs 33–36 and 38–39, respectively, intending to be legally bound hereby, the Parties hereby agree to the terms and provisions of this CD and Environmental Settlement Agreement;

WHEREAS, this CD and Environmental Settlement Agreement is in the public interest and is an appropriate means of resolving these matters;

NOW, THEREFORE, without the admission of liability or the adjudication of any issue of fact or law, and upon the consent and agreement of the Parties by the signature of their applicable attorneys or authorized officials hereto, it is hereby agreed as follows:

II. DEFINITIONS

1. Unless otherwise expressly provided herein, terms used in this CD and Environmental Settlement Agreement that are defined in CERCLA, other Environmental Laws or applicable regulations, or in the Bankruptcy Code shall have the meaning assigned to them therein. In addition, terms defined in the Recitals shall have the meaning set forth therein. When the term “individually” is used with respect to the Stipulated Allowed Claims (as defined below), it is understood, in each instance in this CD and Environmental Settlement Agreement, that such term also includes the Stipulated Joint Lockwood

Allowed Claim (as defined below), which will be jointly held between the United States, on behalf of EPA, and Montana, on behalf of the Montana Department of Environmental Quality, as contemplated by this CD and Environmental Settlement Agreement. Whenever terms listed below are used in this CD and Environmental Settlement Agreement, the following definitions shall apply and, unless the context of this CD and Environmental Settlement Agreement otherwise requires, such meanings shall be equally applicable to the singular and plural forms of the terms defined:

a. “Administrative Claim” has the meaning set forth in the Filed Plan.

b. “Agreed Plan Provisions” means any and all agreed-to chapter 11 plan provisions between the Debtors and Government Environmental Creditors, to be included in a Proposed Plan, including (i) a reference to this CD and Environmental Settlement Agreement, including description of key conditions, performance terms, covenants, and other applicable agreed-to terms and conditions; (ii) an allocation of the Stipulated Allowed Claim Amount among the Government Environmental Creditors’ Stipulated Allowed Claims, including with respect to the Lockwood Environmental Response Trust, in accordance with Paragraph 8 of and consistent with this CD and Environmental Settlement Agreement; (iii) an equitable allocation of equity in the Environmental Plan Trust, including, for the avoidance of doubt, an equitable allocation of any excess assets (*e.g.*, insurance proceeds), if any, that may remain following the full satisfaction of the Allowed amount of all Allowed Claims administered by the Environmental Plan Trust, which shall be included in the treatment of the Government Environmental Creditors’ Stipulated Allowed Claims; and (iv) provisions consistent with Section XIII of this CD and

Environmental Settlement Agreement, including with respect to specifying the Government Environmental Creditors' and Environmental Plan Trust trustee's rights, if any, regarding Soco's or Soco Predecessors-in-Interests' insurance policies or agreements.

c. "Allowed" has the meaning set forth in the Filed Plan.

d. "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure promulgated under section 2075 of the Judicial Code and the general, local, and chambers rules of the Bankruptcy Court, each as in effect on the Effective Date.

e. "Berkshire Entities" means NICO, Berkshire Hathaway Inc, BH Columbia Inc., Columbia Insurance Company, Resolute Management, Inc., Ringwalt & Liesche Co., and National Liability & Fire Insurance Company.

f. "*Bestfoods* Liabilities" means allegations by certain Government Environmental Creditors against the Berkshire Entities, the DBUS Entities, or Brenntag (a) under CERCLA § 107(a)(2), 42 U.S.C. § 9607(a)(2) pursuant to *United States v. Bestfoods*, 524 U.S. 51 (1998) regarding the Debtor Sites or Purchased Entity Sites, and (b) regarding any equivalent claims under state Environmental Law, to the extent applicable.

g. "Brenntag" means, collectively, Brenntag Canada, Inc.; Brenntag Great Lakes, LLC; Brenntag Mid-South, Inc.; Brenntag North America, Inc.; Brenntag Northeast, LLC; Brenntag Pacific, Inc.; Brenntag Southwest, Inc.; Brenntag Specialties, LLC (f/k/a Brenntag Specialties, Inc. and as Mineral and Pigment Solutions, Inc.); and Coastal Chemical Co., LLC.

h. “Brenntag Owned Sites” means, collectively, any properties, facilities, or sites owned or operated by Brenntag at any time after the date of the transfer of property from any Debtor, excluding the Purchased Entity Sites.

i. “Brenntag Owned Site-Related Liabilities” means (i) any police or regulatory liability to a Government Environmental Creditor that Brenntag would be subject to as the owner or operator of a Brenntag Owned Site, and (ii) any Claims of such Brenntag entity that may be asserted against any Government Environmental Creditor in response to (i).

j. “CD and Environmental Settlement Agreement” means this Consent Decree and Environmental Settlement Agreement.

k. “Claim” has the meaning provided in Section 101(5) of the Bankruptcy Code.

l. “Confirmed Plan” means a Proposed Plan that is confirmed by the Bankruptcy Court and/or the United States District Court for the District of New Jersey in the Bankruptcy Cases, as applicable.

m. “Contributing Parties” means, collectively, the Berkshire Entities, Brenntag, and DBUS, as parties to the Contributing Parties Settlement Agreement.

n. “Day” means a calendar day, except that, in computing any period of time under this CD and Environmental Settlement Agreement (i) the day of the event that triggers such period of time should be excluded from such computation and (ii) where the last day would fall on a Saturday, Sunday, or legal holiday, the period shall run until the

close of business of the next calendar day (counting forward) that is not a Saturday, Sunday, or legal holiday.

o. “DBUS Entities” means DBUS and DB US Corporation (f/k/a Stinnes Holding Corporation).

p. “Debtor Arranger/Operator Sites” means, collectively, the following properties, facilities, or sites:

- i. The Casmalia Site, located in Casmalia, California;
- ii. The Chase Chemical Site, located in Pacoima, California;
- iii. The Chatham Brothers Site, located in Escondido, California;
- iv. The Cooper Drum Site, located in South Gate, California;
- v. The La Mirada Site, located in La Mirada, California;
- vi. The Omega Chemical Site, located in Whittier, California;
- vii. The Service Chemical Site, located in Santa Ana, California;
- viii. The Sliver Site, located in Los Angeles, California; and
- ix. The Vernon Site, located in Vernon, California.

q. “Debtor Sites” means, collectively, the Debtor Arranger/Operator Sites and the Debtor-Owned Site, and individually, a “Debtor Site” means one of the Debtor Sites.

r. “Debtor-Owned Site” means the Lockwood Solvent Site, located in Billings, Montana.

s. “Effective Date” means the date on which this CD and Environmental Settlement Agreement is approved by order of the Bankruptcy Court in accordance with Paragraphs 46, 47, and 48 of this CD and Environmental Settlement Agreement.

t. “Environmental Claim” has the meaning set forth in the Filed Plan.

u. “Environmental Laws” means all federal, tribal, state and local statutes, regulations, ordinances and similar provisions having the force or effect of law, concerning public health and safety, worker health and safety, pollution or protection of the environment including, without limitation, CERCLA, the Clean Water Act, the Clean Air Act, Emergency Planning and Community Right-to-Know Act, RCRA, and all judicial or administrative orders or determinations and all common law concerning public health and safety, worker health and safety, pollution or protection of the environment.

v. “Environmental Plan Trust” means (i) the Environmental Remediation Trust (as defined in the Filed Plan) or (ii) a similar trust provided for under a Confirmed Plan applicable to the Government Environmental Creditors’ Stipulated Allowed Claims.

w. “Estate” means, as to each Debtor, the estate created in its Bankruptcy Case under Section 541 of the Bankruptcy Code.

x. “Estate Causes of Action” has the meaning specified in the Contributing Parties Settlement Agreement.

y. “Filed Plan” means the *Chapter 11 Plan of Whittaker, Clark & Daniels, Inc. and Its Debtor Affiliates* [Docket No. 1468].

z. “Government Environmental Creditors” means, collectively, the United States, on behalf of EPA; DTSC; the California Water Boards; OCWD; and Montana. Each, individually, is a “Government Environmental Creditor.”

aa. “Hazardous Substance Superfund” means the EPA Hazardous Substance Superfund established pursuant to 26 U.S.C. § 9507.

bb. “Lockwood Environmental Response Trust” means the environmental response trust for the remediation of the Lockwood Solvent Site to be established by the Lockwood Environmental Trust Agreement as contemplated by this CD and Environmental Settlement Agreement. For the avoidance of doubt, this trust shall not be used for natural resource damages arising from, related to, or otherwise associated with the Lockwood Solvent Site.

cc. “Lockwood Environmental Response Trust Actions” means any and all environmental activities authorized or required under Environmental Laws that occur after the Effective Date and that are related to the Lockwood Solvent Site, including but not limited to response or remedial actions, removal actions, corrective action, closure, or post-closure care, reclamation, investigations, access, studies, remediation, interim actions, final actions, emergency actions, water treatment, implementation of engineered structures and controls, monitoring, repair and replacement of engineered structures, monitoring equipment and controls, operation and maintenance, implementation, operation and maintenance of institutional controls, coordination and integration of reuse and remedial efforts and initiatives (including, without limitation, multi-stakeholder communications), and, if required, long-term stewardship and perpetual custodial care activities. “Lockwood

Environmental Response Trust Actions” also include the above environmental activities relating to the migration of hazardous substances emanating from the Lockwood Solvent Site. For the avoidance of doubt, “Lockwood Environmental Response Trust Actions” shall not include any natural resource assessment or restoration activities.

dd. “Lockwood Environmental Trust Agreement” means the Lockwood Environmental Response Trust Agreement, which shall (a) be in a form mutually agreed (not to be unreasonably withheld, conditioned, or delayed) by the Debtors, the United States, on behalf of EPA, and Montana, on behalf of the Montana Department of Environmental Quality, (b) be filed with any motion contemplated by Paragraph 15 of this CD and Environmental Settlement Agreement, and (c) provide for the Lockwood Solvent Site to be conveyed by Debtors to the Lockwood Environmental Response Trust.

ee. “Lockwood Solvent Site” means Operable Unit 2 at the Lockwood Solvent Ground Water Plume Superfund Site, located on property owned by Soco in Billings, Montana, which is subject to the consent decree, *United States of America et al. v. Soco West, Inc.*, No. CV-11-SS-BLG-RFC, D. Mont., entered by the District Court for the District of Montana on October 3, 2011.

ff. “NICO Payment” means the payments to be made in accordance with Paragraph 6 of this CD and Environmental Settlement Agreement.

gg. “NICO Payment Date #1” means within three (3) Days after the Government Environmental Creditors have provided their support for the Contributing Parties Settlement Agreement as provided in Paragraph 52(c) of this CD and Environmental Settlement Agreement.

hh. “NICO Payment Date #2” means within three (3) Days after the first date by which all of the following have occurred: (a) the Bankruptcy Court enters an order approving the Contributing Parties Settlement Agreement; and (b) the Government Environmental Creditor Settlement Objections have been deemed withdrawn pursuant to Paragraph 54 of this CD and Environmental Settlement Agreement.

ii. “Parties” means the Debtors; the United States, on behalf of EPA; DTSC; California Water Boards; OCWD; Montana; the Berkshire Entities; the DBUS Entities; and Brenntag (any one of which, individually, shall be referred to herein as a “Party”).

jj. “Proposed Plan” means a chapter 11 plan, including any and all exhibits, supplements, orders, and amendments, and revisions or modifications thereto, containing the Agreed Plan Provisions and other provisions or documents, to the extent such other provisions or documents concern the terms and conditions of this CD and Environmental Settlement Agreement, *provided* that such other provisions or documents shall be reasonably acceptable (not to be unreasonably withheld, conditioned, or delayed) in consultation with the Government Environmental Creditors in good faith.

kk. “Purchased Entities” means, collectively, those entities Brenntag North America, Inc. purchased from Brilliant under the 2003 MSPA, which are defined as the “Brenntag Inc. Subsidiaries” in the 2003 MSPA and set forth in Appendix A hereto.

ll. “Purchased Entity-Related Liabilities” means (i) any liabilities pursuant to CERCLA, including any *Bestfoods* Liabilities, that give rise to claims which may be asserted by any Government Environmental Creditor against (a) any Purchased Entity with respect to the Purchased Entity Sites or (b) any Brenntag entity (that is not one of the

Purchased Entities) with respect to the Purchased Entity Sites, and (ii) any Claims of such Brenntag entity or Purchased Entity that may be asserted against any Government Environmental Creditor in response to (i).

mm. “Purchased Entity Sites” means, collectively, the following properties, facilities, or sites related to Purchased Entities, each of which had liabilities indemnified by Brilliant or its predecessors-in-interest pursuant the 2003 MSPA or any transaction or other agreement, instrument or document related thereto:

- i. The American Chemical Services Site, located in Griffith, Indiana;
- ii. The Bay Drum Site, located in Tampa Florida;
- iii. The Burris Chemical Site, with locations in Miami, Florida; Augusta, Georgia; and Charleston, South Carolina;
- iv. The Galaxy Spectron Site, located in Elkton, Maryland;
- v. The Hardage Site, located in Criner, Oklahoma;
- vi. The Lake Calumet Site, located in Chicago, Illinois;
- vii. The Macon Naval Site, located in Macon, Georgia;
- viii. The Malone Service Chemical Site, located in Texas City, Texas;
- ix. The Marine Shale Site, located in Amelia, Louisiana;
- x. The Martin Aaron Site, located in Camden, New Jersey;
- xi. The Revere Chemical Site, located in Nockamixon Township, Pennsylvania;

- xii. The Royle Container Site, located in Longview, Texas;
- xiii. The Seaboard Chemical Site, located in Jamestown, North Carolina;
- xiv. The Seymour Recycling Site, located in Seymour, Indiana;
- xv. The Tarpon Chemical Site, with locations in Tampa and Tarpon Springs, Florida; and
- xvi. The Voda Petroleum Site, located in Clarksville, Texas.

mn. “RCRA” means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901–6992k.

oo. “Service Chemical Site” means the former Service Chemical Company facility located at 1341 E. Maywood Ave., Santa Ana, CA 92705.

pp. “Soco Predecessors-in-Interest” means (i) A.J. Lynch Co., (ii) Western Chemical & Manufacturing Co., (iii) Dyce Chemical Inc., (iv) Crown Chemical Corp., (v) Holchem Inc., (vi) Brenntag West, Inc., and (vii) any other prior affiliate of Soco that was dissolved, cancelled, or otherwise wound down prior to the Petition Date.

qq. “Stipulated Allowed Claims” means, collectively any and all (a) Allowed Environmental Claims of the Government Environmental Creditors or (b) other Allowed Claims for the Debtor Sites of a class of Claims under a Confirmed Plan determined to be held by the Government Environmental Creditors as mutually agreed (not to be unreasonably withheld, conditioned, or delayed) to by the Debtors and the Government Environmental Creditors in good faith. For the avoidance of doubt, the amounts of the Stipulated Allowed Claims, both in the aggregate and as apportioned between the

Government Environmental Creditors individually, as contemplated by this CD and Environmental Settlement Agreement, are compromise amounts and are less than the environmental response costs the Government Environmental Creditors expect to incur at the Debtor Sites, both in the aggregate and individually (with respect to the apportionment between the Government Environmental Creditors, as contemplated by this CD and Environmental Settlement Agreement). Further, the amounts of the Stipulated Allowed Claims, both in the aggregate and as apportioned between the Government Environmental Creditors individually, as contemplated by and consistent with Section XIII of this CD Environmental Settlement Agreement, and subject to applicable law and any applicable insurance policies or agreements, are not binding as to the maximum amount that the Government Environmental Creditors or the trustee of the Environmental Plan Trust could claim, demand, or otherwise assert in negotiations or litigation regarding any claims, including with respect to any actual costs incurred by any of the Government Environmental Creditors, against any of Soco's or Soco Predecessors-in-Interests' insurers held by any of the Government Environmental Creditors, if any.

rr. "Stipulated Allowed Claim Amount" means, \$57 million in the aggregate, and as apportioned between the Government Environmental Creditors individually as contemplated in this CD and Environmental Settlement Agreement. The Stipulated Allowed Claim Amount in this CD and Environmental Settlement Agreement reflects a compromise amount that is less than the environmental response costs the Government Environmental Creditors expect to incur at the Debtor Sites (*i.e.*, their would-be alleged expected damages), both when aggregated together and with respect to each Government

Environmental Creditor individually, and is not binding on any party for any purpose other than administering Soco's Estate in the context of the Bankruptcy Cases pursuant to a Confirmed Plan consistent with the terms of this CD and Environmental Settlement Agreement.

ss. "Stipulated Joint Lockwood Allowed Claim" means a Stipulated Allowed Claim against Soco jointly on behalf of the United States, on behalf of EPA, and the State of Montana for payment for the performance of and/or obligations related to the Lockwood Environmental Response Trust Actions and associated administrative costs in accordance with Paragraph 8(a) of this CD and Environmental Settlement Agreement. For the avoidance of doubt, any recovery on account of the Stipulated Joint Lockwood Allowed Claim pursuant to a Confirmed Plan will be distributed to the Lockwood Environmental Response Trust in accordance with the terms of such Confirmed Plan.

tt. "United States" or "U.S." means the United States of America and each department, agency, and instrumentality of the United States, including the United States Environmental Protection Agency and each successor department, agency, or instrumentality.

2. Unless the context of this CD and Environmental Settlement Agreement otherwise requires, (a) all pronouns apply to the male, female, and neutral genders; and (b) the words "includes" and "including" are without limitation.

III. JURISDICTION

3. The Court has jurisdiction over the subject matter hereof pursuant to 28 U.S.C. §§ 157, 1331, and 1334, and 42 U.S.C. §§ 9607 and 9613(b).

IV. PARTIES BOUND; SUCCESSION AND ASSIGNMENT

4. This CD and Environmental Settlement Agreement applies to, is binding upon, and shall, as provided herein, inure to the benefit of the Government Environmental Creditors, the Debtors, the Debtors' legal successors and assigns (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity), the Berkshire Entities (including their legal successors and assigns), the DBUS Entities (including their successors and assigns), Brenntag (including their successors and assigns) and any trustee, examiner, or receiver appointed in the Bankruptcy Cases.

V. EFFECTIVENESS OF CD AND ENVIRONMENTAL SETTLEMENT

AGREEMENT

5. Except as otherwise stated herein, this CD and Environmental Settlement Agreement and the rights and obligations of the Parties contemplated herein shall become effective upon the occurrence of the Effective Date.

VI. NICO PAYMENT

6. NICO or its designee shall pay an aggregate amount of \$16.5 million to the Government Environmental Creditors on the terms set forth in this CD and Environmental Settlement Agreement. Within fourteen (14) Days after the United States lodges this CD and Environmental Settlement Agreement for public comment in accordance with Paragraph 47, NICO shall establish an interest-bearing escrow account that provides that the funds placed therein are specifically reserved for the payments required by this

Paragraph 6 of this CD and Environmental Settlement Agreement. NICO or its designee shall make two payments of \$8.25 million each into the escrow account on NICO Payment Date #1 and NICO Payment Date #2, respectively, via wire transfer, in lawful currency of the United States of America. However, if the NICO Payment Date #2 does not occur, then Paragraph 6(b) will be applicable.

a. Within ten (10) Days after the occurrence of the latest to occur of (a) the NICO Payment Date #1, (b) the NICO Payment Date #2 (if it occurs), and (c) the Effective Date, NICO shall cause the escrow agent to disburse the funds from the escrow account plus the interest earned in the escrow account (i) to the Government Environmental Creditors, and (ii) to the Lockwood Environmental Response Trust, in both cases, in accordance with the payment instructions in Section XIV of this CD and Environmental Settlement Agreement; *provided* that the allocation of the NICO Payment among the Government Environmental Creditors and the Lockwood Environmental Response Trust, as applicable, is as follows:

- A. Montana Natural Resource Damage Program: 2%;
- B. DTSC: 22.658%;
- C. California Water Boards: 5.565%;
- D. OCWD: 21.777%; and
- E. The Lockwood Environmental Response Trust: 48%.

b. In the event the Bankruptcy Court enters an order denying the Debtors' motion seeking authorization of the Contributing Parties Settlement Agreement, but the Effective Date occurs, NICO will cause the escrow agent to disburse \$8.25 million plus the

interest earned in the escrow account referenced in Paragraph 6(a) in accordance with the above distribution percentages within three (3) Days after the later to occur of (i) entry of the Bankruptcy Court's order denying the Debtors' motion seeking authorization of the Contributing Parties Settlement Agreement, and (ii) the Effective Date.

c. Funds that DTSC, the California Water Boards, and OCWD receive pursuant to this Paragraph 6 may be used only for ongoing and future investigative, corrective, remedial and response actions at the Debtor Site(s) for which the funds have been allocated in this Paragraph 6.

7. NICO shall be entitled to treat the NICO Payment in a manner that yields the most advantageous tax consequences to NICO, subject to 26 U.S.C. § 162(f)(2)(A)(ii) and other applicable law; *provided* that, for the avoidance of doubt, NICO shall make the NICO Payment in accordance with this CD and Environmental Settlement Agreement; *provided, further,* that nothing contained in this CD and Environmental Settlement Agreement shall be deemed to determine the tax liability of any person or entity, nor shall this CD and Environmental Settlement Agreement be deemed to have determined the federal tax treatment of any item, distribution, or entity, or any of the federal tax consequences arising from this CD and Environmental Settlement Agreement.

VII. STIPULATED ALLOWED CLAIMS

8. On the Effective Date, each of the Government Environmental Creditors, individually, except for the Stipulated Joint Lockwood Allowed Claim, which will be jointly held between the United States, on behalf of EPA, and Montana, on behalf of the Montana Department of Environmental Quality, as contemplated by this CD and

Environmental Settlement Agreement, shall have Stipulated Allowed Claims in accordance with their respective allocation of the Stipulated Allowed Claim Amount set forth below and consistent with Section VII of this CD and Environmental Settlement Agreement. The Government Environmental Creditors shall receive no distributions or other payments or disbursements from the Debtors in the Bankruptcy Cases, including pursuant to a Confirmed Plan, with respect to the liabilities and obligations of the Debtors other than as set forth in Sections VII, IX, XIII and XIV of this CD and Environmental Settlement Agreement. The NICO Payment described in Paragraph 6 above is a separate payment from any and all distributions, disbursements, or payments on account of the Stipulated Allowed Claims contemplated under this CD and Environmental Settlement Agreement and shall not be considered in any distribution, disbursement, or payment made pursuant to a Confirmed Plan to the Government Environmental Creditors on account of any Stipulated Allowed Claims described in this Paragraph 8.

a. With respect to the Lockwood Solvent Site: (i) the United States, on behalf of EPA, and Montana, on behalf of the Montana Department of Environmental Quality, shall have a joint Stipulated Allowed Claim (“Stipulated Joint Lockwood Allowed Claim”) of \$23,529,600 of the Stipulated Allowed Claim Amount against Soco; and (ii) Montana, on behalf of the Montana Natural Resource Damage Program, shall have a Stipulated Allowed Claim (“Montana Allowed Claim”) of \$980,400 of the Stipulated Allowed Claim Amount against Soco. With respect to the Stipulated Joint Lockwood Allowed Claim, the United States, on behalf of EPA, and Montana, on behalf of the Montana Department of Environmental Quality, shall each be able to individually and

separately vote its respective allocation of the Stipulated Joint Lockwood Allowed Claim, solely for purposes of voting on a Proposed Plan (which allocation will not be binding on any Party or other party in interest for any purpose other than voting), in accordance with an allocation mutually acceptable (not to be unreasonably withheld, conditioned, or delayed) to the United States, on behalf of EPA, and Montana, on behalf of the Montana Department of Environmental Quality (with written notice (email being sufficient) to the Debtors of such agreed allocation, solely for purposes of voting on a Proposed Plan (which allocation will not be binding on any Party or other party in interest for any purpose other than voting) at least ten (10) Days in advance of the Voting Record Date (as defined in the Filed Plan) or a similar date as set forth in a Proposed Plan). All payments pursuant to a Confirmed Plan in satisfaction of the Stipulated Joint Lockwood Allowed Claim shall be distributed in accordance with Section XIV of this CD and Environmental Settlement Agreement to the Lockwood Environmental Response Trust. Payments related to the Montana Allowed Claim shall be paid directly to Montana, on behalf of the NRD program. The treatment of costs for Lockwood Environmental Response Trust Actions by the United States and Montana at the Lockwood Solvent Site as the Stipulated Joint Lockwood Allowed Claim is for purposes of administrative convenience only in order to allocate funds to the Government Environmental Creditors from the Debtors' limited available funding in connection with a Confirmed Plan.

b. With respect to the Cooper Drum Site, the United States, on behalf of EPA, shall have a Stipulated Allowed Claim of \$1,995,000 against Soco.

c. With respect to the Omega Chemical Site, the United States, on behalf of EPA, shall have a Stipulated Allowed Claim of \$ 1,995,000 against Soco.

d. With respect to the Service Chemical Site, (i) DTSC shall have a Stipulated Allowed Claim of \$12,915,300 against Soco; and (ii) OCWD shall have a Stipulated Allowed Claim of \$12,412,635 against Soco.

e. With respect to the La Mirada Site, the California Water Boards shall have a Stipulated Allowed Claim of \$3,172,065 against Soco. With respect to the Stipulated Allowed Claims contemplated in this Paragraph 8(e), the State Water Board and the Los Angeles Water Board shall each be able to individually and separately vote its respective allocation of such Stipulated Allowed Claims, solely for purposes of voting on a Proposed Plan (which allocation will not be binding on any Party or other party in interest for any purpose other than voting), in accordance with an allocation mutually acceptable (not to be unreasonably withheld, conditioned, or delayed) to the State Water Board and the Los Angeles Water Board (with written notice (email being sufficient) to the Debtors of such agreed allocation, solely for purposes of voting on a Proposed Plan (which allocation will not be binding on any Party or other party in interest for any purpose other than voting) at least ten (10) Days in advance of the Voting Record Date (as defined in the Filed Plan) or a similar date as set forth in a Proposed Plan).

9. Upon the occurrence of the effective date of the Confirmed Plan, the Government Environmental Creditors shall waive any and all Administrative Claims and other Claims having a priority arising under Section 507(a) of the Bankruptcy Code against the Debtors; *provided* that the Government Environmental Creditors reserve all rights

among themselves as to the existence or effect of any Administrative Claims or other Claims having a priority arising under Section 507(a) of the Bankruptcy Code on the allocation of the Stipulated Allowed Claim Amount by and among the Government Environmental Creditors; *provided, further*, upon the occurrence of the Effective Date, that the Debtors shall not make or be required to make any payments on account of any Administrative Claims or other Claims having a priority arising under Section 507(a) of the Bankruptcy Code against the Debtors to the extent that any such Claims are held by the Government Environmental Creditors, if any, prior to or in connection with the occurrence of the effective date of the Confirmed Plan.

VIII. TREATMENT OF ALLOWED CLAIMS

10. All Stipulated Allowed Claims, as contemplated by Paragraph 8 of this CD and Environmental Settlement Agreement, shall receive the applicable treatment set forth in a Confirmed Plan for the Stipulated Allowed Claims, including, for the avoidance of doubt, treatment consistent with the Agreed Plan Provisions; *provided* that any and all distributions, disbursements, or payments made on account of the Government Environmental Creditors' Stipulated Allowed Claims (whether in cash or in non-cash consideration), in the aggregate and as to each Government Environmental Creditor individually, pursuant to a Confirmed Plan shall be subject to, without limitation, the Bankruptcy Code, applicable law, the terms and conditions of any applicable insurance policies, agreements, and other contracts, and the terms and conditions of the Confirmed Plan, including the Agreed Plan Provisions; *provided, further*, the NICO Payment shall not

count as “payment on account of such Claims” for the purpose of Article VI.L of the Filed Plan or any equivalent provision of the Confirmed Plan.

11. For the avoidance of doubt, nothing in this CD and Environmental Settlement Agreement shall prejudice any right of a Government Environmental Creditor to set off against any debt underlying any of the Government Environmental Creditors’ Stipulated Allowed Claims and debts, as applicable, owed to a particular Debtor or Debtors, or shall be deemed a waiver of any right of, defense to, claim regarding, or argument of any Debtor or Debtors in connection therewith.

IX. CREDITS AND SITE ACCOUNTS

12. With respect to the Stipulated Allowed Claims set forth in Paragraph 8 of this CD and Environmental Settlement Agreement for the Government Environmental Creditors, only the amount of cash received by each such entity (and net cash received upon sale of any non-cash distributions) pursuant to a Confirmed Plan as contemplated by this CD and Environmental Settlement Agreement for the Stipulated Allowed Claim for a particular site held by a particular Government Environmental Creditor, and not the individual or aggregate amount of the Stipulated Allowed Claims held by a particular Government Environmental Creditor, shall be credited as a recovery by each such entity for the particular site, which credit shall reduce the liability of non-settling potentially responsible parties for the site by the amount of the credit pursuant to CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2).

13. EPA may, in its sole discretion, deposit any portion of any cash distributions or proceeds of any non-cash distributions it receives on account of a Stipulated Allowed

Claim attributable to a particular site as contemplated by Paragraph 8 of this CD and Environmental Settlement Agreement into a special account established by EPA for each particular site within the Hazardous Substance Superfund pursuant to Section 122(b)(3), 42 U.S.C. § 9622(b)(3), to be retained and used to conduct or finance response actions at or in connection with the site or to be transferred to the Hazardous Substance Superfund. For the avoidance of doubt, any cash distributions or proceeds received in connection with the Stipulated Joint Lockwood Allowed Claim shall be deposited into the Lockwood Environmental Response Trust.

14. Funds that DTSC, the California Water Boards, and OCWD receive pursuant to their respective Stipulated Allowed Claims in accordance with their respective share of the Stipulated Allowed Claim Amount, as contemplated by this CD and Environmental Settlement Agreement, may be used only for ongoing and future investigative, corrective, remedial and response actions at the Debtor Site(s) for which the funds have been allocated pursuant to Paragraph 8 of this CD and Environmental Settlement Agreement.

X. LOCKWOOD ENVIRONMENTAL RESPONSE TRUST

15. The Debtors shall seek relief from the Bankruptcy Court, within 120 Days of the Effective Date (which time period may be extended by the consent (not to be unreasonably withheld, conditioned, or delayed) of the Debtors, the United States, on behalf of EPA, and Montana, on behalf of the Montana Department of Environmental Quality (email being sufficient)), to establish the Lockwood Environmental Response Trust pursuant to the Lockwood Environmental Trust Agreement and convey the Lockwood Solvent Site to the Lockwood Environmental Response Trust; *provided* that, if

the Bankruptcy Court enters an order confirming a Confirmed Plan on a date earlier than the date that is 120 Days after the Effective Date, the Debtors shall (x) establish the Lockwood Environmental Response Trust pursuant to the Lockwood Environmental Trust Agreement and (y) convey the Lockwood Solvent Site to the Lockwood Environmental Response Trust pursuant to such Confirmed Plan; *provided, further*, that, in the event that neither the NICO Payment Date #1 nor the date that is three (3) Days after the entry of the Bankruptcy Court's order denying the Debtors' motion seeking authorization of the Contributing Parties Settlement Agreement, each as contemplated by Paragraph 6 of the CD and Environmental Settlement Agreement, have occurred within the 120 Days following the Effective Date, the Debtors shall then seek relief from the Bankruptcy Court to establish the Lockwood Environmental Response Trust pursuant to the Lockwood Environmental Trust Agreement and convey the Lockwood Solvent Site to the Lockwood Environmental Response Trust within fourteen (14) Days (which time period may be extended by the consent (not to be unreasonably withheld, conditioned, or delayed) of the Debtors, the United States, on behalf of EPA, and Montana, on behalf of the Montana Department of Environmental Quality (email being sufficient)) of the date that is the earlier of the NICO Payment Date #1 and the date that is three (3) Days after the entry of the Bankruptcy Court's order denying the Debtors' motion seeking authorization of the Contributing Parties Settlement Agreement, each as contemplated by Paragraph 6 of the CD and Environmental Settlement Agreement. For the avoidance of doubt, following the establishment of the Lockwood Environmental Response Trust as contemplated by this Paragraph 15 of this CD and Environmental Settlement Agreement, and except as

otherwise provided in the Lockwood Environmental Trust Agreement, neither the Debtors, the Debtors' legal successors and assigns (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee), nor the Debtors' Estates shall have any obligation to fund any administrative, operating, or other costs, fees, expenses, or other amounts of the Lockwood Environmental Response Trust beyond that described in Paragraph 8 in this CD and Environmental Settlement Agreement, including, without limitation, professional fees, monitoring and response costs, federal, state or local taxes, trustee costs, filing fees, or regulatory fees; *provided, however*, that Debtors shall pay, consistent with past practice, all ordinary course taxes or other costs associated with the Lockwood Solvent Site for the period up to the date of transfer of the Lockwood Solvent Site.

XI. CONSENT DECREE RELATED TO THE MARTIN AARON SITE

16. Soco's obligations under *United States of America et al. v. American Industries, Inc. et al.*, Civ. No. 1:07-CV-05334, in the District of New Jersey in connection with the Martin Aaron Site, shall not be impaired in any way by this CD and Environmental Settlement Agreement. For the avoidance of doubt, non-debtor Brenntag Northeast, Inc.'s liability with respect to the Martin Aaron Site shall not be impaired in any way by a Confirmed Plan or this CD and Environmental Settlement Agreement. The Parties reserve all, and do not release any, rights, claims, and defenses regarding the treatment of Soco's obligations under *United States of America et al. v. American Industries, Inc. et al.*, Civ. No. 1:07-CV-05334, in the District of New Jersey in connection with the Martin Aaron Site, pursuant to a Confirmed Plan.

XII. RESOLUTION OF PROOFS OF CLAIM

17. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Bankruptcy Court, including, without limitation, any order establishing a deadline for filing proofs of claim, including the bar date order entered at Docket Number 1588, each of the Government Environmental Creditors shall not be required to file any proof of claim with respect to any of the Stipulated Allowed Claims contemplated herein, all of which shall be considered Allowed as set forth in a Confirmed Plan and in accordance with this CD and Environmental Settlement Agreement without the necessity of filing any such proof of claim, and the failure to file such proof of claim shall not affect the validity, priority, and/or enforceability of this CD and Environmental Settlement Agreement or of any of the Stipulated Allowed Claims contemplated thereby or prejudice or otherwise adversely affect the Government Environmental Creditors' rights, remedies, powers, and/or privileges with respect to such Stipulated Allowed Claims. For the avoidance of doubt, the Government Environmental Creditors (a) shall receive the treatment of their Stipulated Allowed Claims in accordance with the provisions for treatment of Stipulated Allowed Claims, as provided in a Confirmed Plan, including the Agreed Plan Provisions, and (b) are required to file a proof of claim (i) by the applicable bar date set by the Bankruptcy Court, for any and all other Claims against the Debtors not expressly contemplated by this CD and Environmental Settlement Agreement, and (ii) within forty-five (45) Days of the Bankruptcy Court's entry of an order denying a motion seeking authority to enter into this CD and Environmental Settlement Agreement,

for any and all Claims against the Debtors expressly contemplated by this CD and Environmental Settlement Agreement.

18. Subject to the occurrence of the Effective Date, the OCWD and Montana Proofs of Claim and any and all Claims, requests, or demands deemed to be filed pursuant to Paragraph 17 shall be deemed satisfied in full in accordance with the terms of this CD and Environmental Settlement Agreement.

XIII. OTHER AGREEMENTS

19. The Debtors' rights and obligations under this CD and Environmental Settlement Agreement shall inure to the benefit of and be binding on, as applicable, their Estates and any representatives thereof, including any reorganized or wind-down Debtors, and any trust, plan administrator, or trustee (but only in their capacity as such entity) established or appointed pursuant to applicable provisions of the Bankruptcy Code, including pursuant to a Confirmed Plan.

20. The Government Environmental Creditors reserve the right to seek reimbursement to which they may be entitled from any insurer of Soco or Soco Predecessors-in-Interest that may have issued an insurance policy or agreement providing coverage to Soco or Soco Predecessors-in-Interest for damages, if any, the Government Environmental Creditors have incurred or do incur in relation to any of Debtors' Sites (including on account of any actual costs incurred by any of the Government Environmental Creditors in relation to any of Debtor Sites), solely subject to the terms of a Confirmed Plan and to the fullest extent permitted under applicable law and any such insurance policies or agreements. The Government Environmental Creditors reserve their

rights to seek damages in any lawsuit asserting a direct claim (including on account of any actual costs incurred by any of the Government Environmental Creditors) held by any Government Environmental Creditor against any insurer of Soco or Soco Predecessors-in-Interest in excess of the Stipulated Allowed Claim Amount, both in the aggregate and with respect to any Government Environmental Creditor's respective share thereof contemplated by this CD and Environmental Settlement Agreement, to the fullest extent permitted under applicable law and any applicable insurance policies and agreements. The Debtors do not warrant or represent that there is any insurance coverage for or otherwise applicable to the Environmental Plan Trust, the Government Environmental Creditors or the Government Environmental Creditors' Stipulated Allowed Claims. For the avoidance of doubt, any payments from Soco's or Soco Predecessors-in-Interests' insurers, if any, above the Stipulated Claims Amount on account of (a) any equity in the Environmental Plan Trust to be included in the treatment of the Government Environmental Creditors' Stipulated Allowed Claims, as contemplated by the CD and Environmental Settlement Agreement, or (b) any direct claims held by the Government Environmental Creditors against Soco's or Soco Predecessors-in-Interests' insurers, if any, in each case, shall not count as "payment on account of such Claims" for the purpose of Article VI.L of the Filed Plan or any equivalent provision of the Confirmed Plan.

21. This CD and Environmental Settlement Agreement, to the fullest extent permitted under applicable law and any applicable insurance policies or agreements, is not intended to and shall not bind any person or entity, including any insurer, trustee of the Environmental Plan Trust, or Government Environmental Creditor, with respect to the

validity or amount of or otherwise be construed to constitute a finding, conclusion, or determination regarding any insurer's coverage obligations or any other party's claims, liability, or rights (in each case, including those with respect to actual costs incurred by any Government Environmental Creditor) under any applicable insurance policy or agreement with respect to the Government Environmental Creditors' claims, or the Stipulated Allowed Claims Amount. Further, this CD and Environmental Settlement is not intended to and shall not be construed to constitute a finding, conclusion or determination regarding whether any particular insurance policy or agreement, including any proceeds therefrom or rights to such proceeds or to assert claims or make demands in pursuit of such proceeds, constitute property of Soco's Estate.

22. Notwithstanding any other provision of this CD and Environmental Settlement Agreement or a Confirmed Plan or an order confirming a Confirmed Plan, but solely following the occurrence of both the Effective Date and the effective date of a Confirmed Plan, the Government Environmental Creditors may, without further order of the Court, name Soco or the Environmental Plan Trust, as applicable, as a defendant or other party in a lawsuit for the sole purpose of pursuing a direct claim held by such Government Environmental Creditor against an insurer of Soco or Soco Predecessors-in-Interest; *provided, however*, that any judgment that any Government Environmental Creditor may obtain in such a lawsuit shall only be enforceable against Soco's or Soco Predecessors-in-Interest's insurers, if any and subject to applicable law and any applicable insurance policy or agreement, including, in each case, any coverage defenses or other rights such insurer may have thereunder, and not against any other property of the Debtors' or their legal

successors and assigns (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee), officers, directors, shareholders, or the Environmental Plan Trust; *provided, further*, any such judgment shall be reduced by an amount equal to any deductible or self-insured retention, if any, for which Soco may be responsible thereby satisfying any obligation that Soco may have regarding any deductible or self-insured retention, if any.

XIV. DISTRIBUTION/PAYMENT INSTRUCTIONS

23. Cash distributions and payments to the United States, on behalf of EPA, contemplated by this CD and Environmental Settlement Agreement shall be made at <https://www.pay.gov> or by FedWire Electronic Funds Transfer to the United States Department of Justice account in accordance with instructions, including a Consolidated Debt Collection System (“CDCS”) number, to be provided to the Debtors or NICO or its designee, as applicable, by the Financial Litigation Unit of the United States Attorney’s Office for the District of New Jersey.

24. Cash distributions and payments to the Lockwood Environmental Response Trust contemplated by this CD and Environmental Settlement Agreement shall be made in accordance with the Lockwood Environmental Trust Agreement.

25. Distributions and payments to the DTSC contemplated by this CD and Environmental Settlement Agreement shall be made by electronic funds transfer (“EFT”) or cashier’s check payable to “Cashier, California Department of Toxic Substances Control.”

a. EFT Payments: If the payments are made by EFT, Settling Defendants shall make payment as directed in the “Electronic Fund Transfer Instructions” provided by DTSC to Settling Defendants.

b. Cashier’s Check Payments: If the payments are made by cashier’s checks, the checks shall bear on its face both the docket number of this proceeding and the phrase “Site Code 401671.”

i. The payments shall be sent to:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P.O. Box 806
Sacramento, CA 95812-0806

ii. A copy of each cashier’s check shall be mailed to:

Farah Itani, Project Manager
Site Mitigation and Restoration Program
Department of Toxic Substances Control
Cypress Office

iii. A copy of each cashier’s check shall be emailed to:

Dong.Cao@dtsc.ca.gov in PDF format.

26. Distributions and payments to the California Water Boards contemplated by this CD and Environmental Settlement Agreement shall be payable by check to the State Water Pollution Cleanup and Abatement Account, with reference to the Whittaker, Clark & Daniels Case number 23-13575 and Order Approving this CD and Environmental Settlement Agreement, and mailed to the following address:

State Water Resources Control Board,
Attn: Accounting Office,
P.O. Box 1888, Sacramento, CA 95812-1888.

27. Distributions and payments to OCWD contemplated by this CD and Environmental Settlement Agreement shall be by wire transfer to the following trust account of OCWD's counsel of record, Miller & Axline:

[Full bank account and/or wire transfer information is redacted and on file with the Debtors]

28. Distributions and payments to Montana contemplated by this CD and Environmental Settlement Agreement shall be made via wire transfer in accordance with instructions to be provided by Montana. The payor, under Paragraph 6 or a Confirmed Plan as contemplated by Paragraph 8, as applicable, shall contact the Chief Financial Officer of the Central Services Division of the Montana Department of Justice (dojaccountants@mt.gov) with a cc to dojnrdpinvoice@mt.gov at least 48 hours prior to initiating a transfer to provide notice of the date, time, and amount of the expected transfer and to confirm the wiring instructions, bank routing, and account numbers. Montana shall deposit the payments received, and any subsequent interest and earnings, into a State special revenue (non-budgeted) fund to be established in accordance with Section 17-2-102(1)(b)(i), Montana Code Annotated (the "Lockwood Site NRD Account"). Montana shall use the principal amount and any interest and investment return

on the Lockwood Site NRD Account solely to assess, restore, replace, rehabilitate, or acquire the equivalent of the natural resources Montana contends were injured or lost at the Lockwood Solvent Site and all related costs, including reimbursement of past costs. No portion of the amounts deposited in the Lockwood Site NRD Account under this Settlement Agreement, or any interest or earnings thereon, is to be treated as State General Fund money, nor is any portion to be converted or transferred to the State General Fund. The monies paid to Montana, and the interest and earnings thereon, shall be available only for the purposes described in this CD and Environmental Settlement Agreement and for no other purpose.

29. In the event that one or more of the Government Environmental Creditors sells or transfers its or their Stipulated Allowed Claims, as applicable, any distributions, disbursements, or payments on such Stipulated Allowed Claims shall be made to a transferee only at such time as the Debtors (or, as applicable, any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee) receive written instructions from the applicable Government Environmental Creditor(s) directing that distributions or payments be made to a transferee and instructions as to where such distributions or payments should be directed, and, prior to the closing of the Bankruptcy Cases, after an evidence of claim transfer has been filed with the Bankruptcy Court in accordance with the Bankruptcy Code; *provided* that any person or entity to which a Government Environmental Creditor sells or transfers one or more of its Stipulated Allowed Claims shall, contemporaneous with such sale(s) or transfer(s), execute a joinder to this CD and

Environmental Settlement Agreement substantially in the form attached hereto as Appendix C.

30. As soon as reasonably practicable following any distribution or payment on account of the Stipulated Allowed Claims pursuant to a Confirmed Plan as contemplated by this CD and Environmental Settlement Agreement, the Debtors shall transmit written confirmation (email being sufficient) of such distribution or payment to each Government Environmental Creditor, in accordance with Paragraph 45, and to the EPA Cincinnati Finance Office by email at cinwd_acctsreceivable@epa.gov with a reference to Bankruptcy Case Number 23-13575 (MBK), the CDCS number, DOJ Case Number 90-11-3-12869, and the applicable Site/Spill ID number(s) from Appendix B.

31. Following the establishment of the Lockwood Environmental Response Trust pursuant to Paragraph 15 of this CD and Environmental Settlement Agreement, the funds in the Lockwood Financial Assurance Trust created on October 31, 2011 pursuant to a trust agreement by and between Soco and Wells Fargo Bank, N.A., dated October 31, 2011, and the Consent Decree, *United States of America et al. v. Soco West, Inc.*, No. CV 11-SS-BLG-RFC, for the Lockwood Solvent Site shall be deposited in the Lockwood Environmental Response Trust, pursuant to and consistent with the terms as set forth in the trust agreement and consent decree referenced in this Paragraph 31; *provided, further*, that the contribution of such funds to the Lockwood Environmental Response Trust is without prejudice to any recovery on account of any Stipulated Allowed Claims held by EPA or Montana pursuant to a Confirmed Plan as contemplated by this CD and Environmental Settlement Agreement.

XV. COVENANTS AND RESERVATIONS

32. In consideration of all of the foregoing, including, without limitation, the distributions and/or payments that will be made, the NICO Payment made in accordance with Paragraph 6 of this CD and Environmental Settlement Agreement, the allowance of the Stipulated Allowed Claims as contemplated by this CD and Environmental Settlement Agreement, and any distribution on account of the Stipulated Allowed Claims solely pursuant to a Confirmed Plan as contemplated by this CD and Environmental Settlement Agreement and except as specifically provided in Paragraphs 34–36 of this CD and Environmental Settlement Agreement:

a. EPA covenants not to sue and not to take administrative action against any or all of the Debtors (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity), the Berkshire Entities, the DBUS Entities, or Brenntag relating to, in connection with, or arising from any of the Debtor Sites or Purchased Entity Sites pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, including any *Bestfoods* Liabilities. Notwithstanding anything to the contrary in this CD and Environmental Settlement Agreement, this covenant does not extend to Brenntag (including the Purchased Entities) with respect to the Purchased Entity-Related Liabilities and the Brenntag Owned Site-Related Liabilities.

b. DTSC covenants not to sue and not to take administrative action against any or all of the Debtors (including any reorganized or wind-down Debtors, and any trust,

plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity), the Berkshire Entities, the DBUS Entities, or Brenntag relating to, in connection with, or arising from any of the Debtor Sites or Purchased Entity Sites pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, and equivalent state or local Environmental Laws, including any *Bestfoods* Liabilities. Notwithstanding anything to the contrary in this CD and Environmental Settlement Agreement, this covenant does not extend to Brenntag (including the Purchased Entities) with respect to the Purchased Entity-Related Liabilities and the Brenntag Owned Site-Related Liabilities.

c. The California Water Boards covenant not to sue and not to take administrative action against any or all of the Debtors (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity), the Berkshire Entities, the DBUS Entities, or Brenntag relating to, in connection with, or arising from each of the Debtor Sites or the Purchased Entity Sites pursuant to the Porter-Cologne Water Quality Control Act, California Water Code section 13000 *et seq.*, Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, and equivalent state or local Environmental Laws, including any *Bestfoods* Liabilities. Notwithstanding anything to the contrary in this CD and Environmental Settlement Agreement, this covenant does not extend to Brenntag (including the Purchased Entities) with respect to the Purchased Entity-Related Liabilities and the Brenntag Owned Site-Related Liabilities.

d. OCWD covenants not to sue and not to take administrative action against any or all of the Debtors (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity), the Berkshire Entities, the DBUS Entities, or Brenntag relating to, in connection with, or arising from the Service Chemical Site pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, and equivalent state or local Environmental Laws, including any *Bestfoods* Liabilities.

e. Montana covenants not to sue and not to take administrative action against any or all of the Debtors (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity), the Berkshire Entities, the DBUS Entities, and Brenntag relating to, in connection with, or arising from the Lockwood Solvent Site pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, and equivalent state or local Environmental Laws, including any *Bestfoods* Liabilities.

f. The covenants set forth in this Paragraph 32 of this CD and Environmental Settlement Agreement shall take effect as to the Berkshire Entities, the DBUS Entities, and Brenntag after the NICO Payment has been made on NICO Payment Date #1 and NICO Payment Date #2 and disbursed from escrow as set forth in Paragraph 6(a) and the occurrence of the Effective Date.

g. The covenants set forth in this Paragraph 32 of this CD and Environmental Settlement Agreement shall take effect as to the Debtors after (i) the occurrence of both the effective date of the Confirmed Plan and the Effective Date and (ii) the receipt of any and

all distributions on account of the Stipulated Allowed Claims by the Government Environmental Creditors pursuant to the Confirmed Plan.

33. Without in any way limiting the covenants set forth in Paragraph 32 (and the reservations thereto set forth in Paragraphs 34–36), and notwithstanding any other provision of this CD and Environmental Settlement Agreement, such covenants and reservations shall also apply to the successors and assigns, and the current and former officers, directors, employees, and trustees of the Debtors, the Berkshire Entities, the DBUS Entities, and Brenntag, respectively, but only to the extent that the alleged liability of such other person or entity is based solely on its status as and in its capacity as such successor or assign, officer, director, employee, or trustee of any such Party. For the avoidance of doubt, neither the covenants set forth in Paragraph 32 nor the application of those covenants pursuant to this Paragraph 33 extend to Brenntag (including the Purchased Entities) with respect to the Purchased Entity-Related Liabilities and the Brenntag Owned Site-Related Liabilities.

34. The covenants set forth in Paragraph 32 extend only to the Debtors (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity), the Berkshire Entities, the DBUS Entities, Brenntag, and the persons described in Paragraph 33, and do not extend to any other person. The Government Environmental Creditors expressly reserve any and all claims, demands, and causes of action, either judicial or administrative, past, present, or future, in law or equity, which they may have against all other persons, firms, corporations, or entities, for any matter

arising at or relating in any manner to the sites or claims addressed herein, expressly including all Purchased Entity-Related Liabilities and all Brenntag Owned Site-Related Liabilities. Further, nothing in this CD and Environmental Settlement Agreement diminishes the right of the United States or DTSC, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)–(3), to enter into any settlement that gives rise to contribution protection for any person not a Party to this CD and Environmental Settlement Agreement.

35. The covenants set forth in Paragraph 32 do not pertain to any matters other than those expressly specified therein. Subject to Section XIX of this CD and Environmental Settlement Agreement, the Government Environmental Creditors expressly reserve, and this CD and Environmental Settlement Agreement is without prejudice to, all rights against the Debtors and the persons described in Paragraph 33 with respect to all matters other than those set forth in Paragraph 32. The Government Environmental Creditors also specifically reserve, and this CD and Environmental Settlement Agreement is without prejudice to, any and all action(s) based on a failure to meet a requirement of this CD and Environmental Settlement Agreement. In addition, the Government Environmental Creditors reserve, and this CD and Environmental Settlement Agreement is without prejudice to, any and all rights against the Debtors, the Berkshire Entities, the DBUS Entities, Brenntag, and the persons described in Paragraph 33 with respect to the Debtor Sites for liability under federal or state law for acts by the Debtors, the Berkshire Entities, the DBUS Entities, Brenntag, or the persons described in Paragraph 33 that occur after the date of lodging of this CD and Environmental Settlement Agreement. As used in

the preceding sentence, the phrase “acts by the Debtors, the Berkshire Entities, the DBUS Entities, Brenntag, or the persons described in Paragraph 33 that occur after the date of lodging of this CD and Environmental Settlement Agreement” does not include continuing releases related to conduct occurring before the date of lodging of this CD and Environmental Settlement Agreement. Notwithstanding any other provision of this CD and Environmental Settlement Agreement, each of the United States, on behalf of EPA, and DTSC reserve, and this CD and Environmental Settlement Agreement is without prejudice to, all rights against the Berkshire Entities and the DBUS Entities regarding criminal liability, and against Brenntag, including the Purchased Entities, regarding (i) criminal liability, (ii) Purchased Entity-Related Liabilities, or (iii) Brenntag Owned Site-Related Liabilities.

36. Nothing in this CD and Environmental Settlement Agreement shall be deemed to limit the authority of the Government Environmental Creditors to take any response action under Section 104 of CERCLA, 42 U.S.C. § 9604, or any other applicable statute or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the Government Environmental Creditors pursuant to such authority, *provided, however*, that nothing in this sentence affects the covenants set forth in Paragraphs 32 and the application of those covenants as set forth in Paragraph 33. Nothing in this CD and Environmental Settlement Agreement shall be deemed to limit the access and information-gathering authority of the Government Environmental Creditors under Sections 104 and 122 of CERCLA, 42 U.S.C. §§ 9604 and 9622, their state law equivalents, or any other applicable statute or regulation, or to excuse the Debtors, the

Berkshire Entities, the DBUS Entities, or Brenntag from any disclosure or notification requirements imposed by CERCLA or by any other applicable statute or regulation with respect to the Debtor Sites, the Purchased Entity Sites, or the Brenntag Owned Sites.

37. The Debtors, the Berkshire Entities, the DBUS Entities, and Brenntag covenant not to sue and agree not to assert, pursue, file, commence, or otherwise take a civil action or administrative action against (a) the Government Environmental Creditors and (b) the United States, including any agency of the United States, including for: (i) any direct or indirect claim for reimbursement from the Hazardous Substance Superfund or similar state funds; (ii) any claim under Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, or Section 7002(a) of RCRA, 42 U.S.C. § 6972(a) or similar state or local Environmental Laws; or (iii) any claim arising out of response activities at the Debtor Sites or the Purchased Entity Sites. For the avoidance of doubt, this covenant does not extend to Brenntag with respect to the Purchased Entity-Related Liabilities or the Brenntag Owned Site-Related Liabilities and shall not create any liability in connection with the Purchased Entity-Related Liabilities or the Brenntag Owned Site-Related Liabilities that either Brenntag or a Government Environmental Creditor would not have in the absence of this CD and Environmental Settlement Agreement, or expand any liability it otherwise had, or nullify or otherwise impair any defense (whether contractual or otherwise) Brenntag or any Government Environmental Creditor has under law in connection with the Purchased Entity-Related Liabilities or the Brenntag Owned Site-Related Liabilities. Nothing in this CD and Environmental Settlement Agreement shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C.

§ 9611, or 40 C.F.R. § 300.700(d). The covenants set forth in this Paragraph 37 (i) as to the Debtors, shall take effect after the occurrence of both the effective date of a Confirmed Plan and the Effective Date and the receipt of any distributions, if any, on account of the Stipulated Allowed Claims by the Government Environmental Creditors pursuant to the Confirmed Plan; and (ii) as to the Berkshire Entities, the DBUS Entities, and Brenntag, shall take effect after the NICO Payment has been made on NICO Payment Date #1 and NICO Payment Date #2 and disbursed from escrow and the occurrence of the Effective Date.

38. Except as provided in Paragraph 37, the Debtors (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity), the Berkshire Entities, the DBUS Entities, and Brenntag expressly reserve all claims, demands, and causes of action, either judicial or administrative, past, present, or future, in law or equity, which they may have against all other persons, firms, corporations, or entities for any matter arising at or relating in any manner to all Purchased Entity-Related Liabilities and Brenntag Owned Site-Related Liabilities. Notwithstanding anything to the contrary contained herein, except for and solely with respect to causes of action, if any, for which a Contributing Party receives a covenant not to sue set forth in Paragraphs 32–34 of this CD and Environmental Settlement Agreement (and solely during any period during which such covenant is effective as to such cause of action), each Contributing Party reserves all, and does not release any, rights, claims, and defenses (whether contractual or otherwise) against each other Contributing Party, including but not limited to all rights,

claims, and defenses under the 2003 MSPA and 2007 Acquisition (“Preserved Rights”). For the avoidance of doubt, the Contributing Parties agree (i) that the covenants not to sue set forth in this CD and Environmental Settlement Agreement by the respective Contributing Parties shall not be raised as a defense and shall not constitute a defense to the assertion of Preserved Rights, and (ii) that nothing in this CD and Environmental Settlement Agreement shall be raised as a defense and/or shall constitute a defense to the assertion of Preserved Rights with respect to Purchased Entity-Related Liabilities or Brenntag Owned Site-Related Liabilities.

39. Notwithstanding any other provision of this CD and Environmental Settlement Agreement, the Debtors, the Berkshire Entities, the DBUS Entities, and Brenntag reserve, and this CD and Environmental Settlement Agreement is without prejudice to, claims against the Government Environmental Creditors in the event any claim is asserted by one or more of the Government Environmental Creditors against the Debtors, the Berkshire Entities, the DBUS Entities, or Brenntag, as applicable, pursuant to any of the reservations set forth in Paragraphs 34–35, other than for failure to meet a requirement of this CD and Environmental Settlement Agreement, but only to the extent that the claims of the Debtors, the Berkshire Entities, the DBUS Entities, or Brenntag, as applicable, arise from the same response action, response costs, or damages that one or more Government Environmental Creditor is seeking pursuant to the applicable reservation.

XVI. EFFECT OF SETTLEMENT; CONTRIBUTION

40. The Parties agree, and by entering this CD and Environmental Settlement Agreement the Court finds, that this CD and Environmental Settlement Agreement

constitutes a judicially-approved settlement pursuant to which each Debtor (including any reorganized or wind-down Debtors, and any trust, plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity), the Berkshire Entities, the DBUS Entities, and Brenntag have, as of the Effective Date, resolved alleged liability to the United States, on behalf of EPA, within the meaning of Sections 113(f)(2) and 113(f)(3)(B) of CERCLA, 42 U.S.C. §§ 9613(f)(2) & 9613(f)(3)(B), and is entitled, as of the Effective Date, to protection from contribution actions and claims as provided by Section 113(f)(2) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this CD and Environmental Settlement Agreement. The “matters addressed” in this CD and Environmental Settlement Agreement are all response actions taken or to be taken, and all response costs incurred or to be incurred, at or in connection with the Debtor Sites or the Purchased Entity Sites (as to entities other than Brenntag (including the Purchased Entities)) by the Government Environmental Creditors or any potentially responsible parties. For the avoidance of doubt, the “matters addressed” in this CD and Environmental Settlement Agreement do not include the Purchased Entity-Related Liabilities and the Brenntag Owned Site-Related Liabilities with respect to Brenntag (including the Purchased Entities).

41. Notwithstanding the preceding Paragraph 40, if a Government Environmental Creditor exercises rights under the reservations in Paragraph 35, other than for failure to meet a requirement of this CD and Environmental Settlement Agreement, the “matters addressed” in this CD and Environmental Settlement Agreement shall no longer include those response costs, and response actions that are within the scope of the exercised

reservation. Furthermore, notwithstanding the preceding Paragraph 40, the “matters addressed” in this CD and Environmental Settlement Agreement do not include claims against any of the Debtors for past response costs incurred by potentially responsible parties prior to the Petition Date and included in proofs of claim timely filed in any of the Bankruptcy Cases by potentially responsible parties with respect to any of the Debtor Sites; *provided* that nothing in this CD and Environmental Settlement Agreement shall prohibit, limit, restrict, or otherwise prejudice the Debtors or any other person or entity with respect to asserting any claims, defenses, arguments, or rights regarding the disallowance of any claims held by or otherwise with respect to any non-governmental potentially responsible party in these Bankruptcy Cases.

42. Each of the Debtors, the Berkshire Entities, the DBUS Entities, and Brenntag agrees that, with respect to any suit or claim brought against it after the Effective Date for matters related to this CD and Environmental Settlement Agreement, it will notify the Government Environmental Creditors in writing within ten (10) Days, or as soon as reasonably practicable, after service of the complaint or claim upon it. In addition, in connection with any such suit or claim, each of the Debtors, the Berkshire Entities, the DBUS Entities, and Brenntag agrees that it will notify the Government Environmental Creditors in writing within ten (10) Days, or as soon as reasonably practicable, after service or receipt of any motion for summary judgment, and within ten (10) Days, or as soon as reasonably practicable, after receipt of any order from a court setting a case for trial; *provided, however*, that the failure to notify the Government Environmental Creditors

pursuant to this Paragraph 42 shall not in any way affect the protections afforded under Section XV (Covenants and Reservations).

43. For the avoidance of doubt, nothing in this CD and Environmental Settlement Agreement, or in any order approving this CD and Environmental Settlement Agreement, shall affect or alter the terms, conditions, effect, or operation of the Contributing Parties Settlement Agreement or the settlement contemplated thereunder as to the Debtors, the Contributing Parties, and any other entity contemplated therein or thereby; *provided, however*, that with respect to the Brenntag Owned Sites, any order approving the Contributing Parties Settlement Agreement shall include the following agreed-upon language:

Nothing in this Order or the Settlement Agreement releases, nullifies, precludes, or enjoins the enforcement of any police or regulatory liability to a governmental unit that any entity would be subject to as the owner or operator of property after the date of the transfer of property from any Debtor. For the avoidance of doubt, this [Paragraph 14 of the proposed order filed at Docket No. 1297-3] does not preserve or expand any liability that a party would not otherwise have as an owner or operator of property after the date of the transfer of property from any Debtor. For the further avoidance of doubt, nothing in this [Paragraph 14 of the proposed order filed at Docket No. 1297-3] shall be construed to mean that the Settlement Agreement does not resolve any and all alleged liability (environmental or otherwise) of Non-Debtor Released Parties (a) as alter egos of the Debtors, and (b) in connection with allegations that the Non-Debtor Released Parties (1) expressly or impliedly agreed to assume the Debtors' liabilities; (2) engaged in a de facto merger; (3) were a mere continuation of the Debtors' businesses; (4) continued one or more Debtors' enterprise; (5) fraudulently avoided liability of any of the Debtors; or (6) continued one or more product lines of the Debtors. Nothing in this Order divests any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Order or to adjudicate any defense asserted under this Order.

The Parties to this CD and Environmental Settlement Agreement agree that nothing in the Contributing Parties Settlement Agreement or in any order approving the Contributing Parties Settlement Agreement affects the terms of this CD and Environmental Settlement

Agreement regarding the Purchased Entity-Related Liabilities and the Brenntag Owned Site-Related Liabilities with respect to Brenntag (including the Purchased Entities).

44. For the avoidance of doubt, nothing in this CD and Environmental Settlement Agreement, or in any order approving this CD and Environmental Settlement Agreement, shall affect or alter the terms, conditions, effect, or operation of the settlement approved by the Bankruptcy Court pursuant to the *Order Granting Debtors' Motion to Approve the Sliver Site Settlement* [Docket No. 1933].

XVII. NOTICES AND SUBMISSIONS

45. Whenever, under the terms of this CD and Environmental Settlement Agreement, written notice is required to be given, or a report or other document is required to be sent by one Party to another, it shall be directed to the individuals in electronic format via email at the addresses specified below, unless those individuals or their successors give notice of a change of address to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Except as otherwise provided in this CD and Environmental Settlement Agreement, written notice as specified herein shall constitute complete satisfaction of any written notice requirement in this CD and Environmental Settlement Agreement with respect to the Government Environmental Creditors, the Debtors, the Berkshire Entities, the DBUS Entities, and Brenntag, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611

Washington, DC 20044
Ref. DOJ File No. 90-11-3-12869
Email: eescdcopy.enrd@usdoj.gov

Kerriann Shabanowitz
Attorney-Advisor, Office of Site Remediation Enforcement
U.S. Environmental Protection Agency
William Jefferson Clinton Building Mail Code: 1448K
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Email: Shabanowitz.Kerriann@epa.gov

Matthew Kryman
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 8 [Mail Code: 8ORC-LE-C]
1595 Wynkoop Street
Denver, CO 80202
Email: Kryman.Matthew@epa.gov

As to California Department of Justice for DTSC:

Mitchell Rishe
300 South Spring St
Los Angeles, CA 90013
Email: Mitchell.Rishe@doj.ca.gov

As to DTSC:

Benjamin Stanphill
Branch Chief
Site Mitigation and Restoration Program
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, CA 90630-4732
E-mail: Benjamin.Stanphill@dtsc.ca.gov

Dakotah Griscom Benjamin
Attorney
Department of Toxic Substances Control
Office of Legal Counsel
1001 I Street
PO Box 806
Sacramento, CA 95812-0806
E-mail: Dakotah.GriscomBenjamin@dtsc.ca.gov

As to California Department of Justice for the State Water Board and the Los Angeles Water Board:

Annadel A. Almendras, Sr. Assistant Attorney General
Natural Resources Law Section
California Department of Justice, Attorney General's Office
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Email: Annadel.Almendras@doj.ca.gov

Barbara Spiegel, Deputy Attorney General
Natural Resources Law Section
California Department of Justice, Attorney General's Office
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Email: Barbara.Spiegel@doj.ca.gov

As to State Water Board:

Philip Wyels, Assistant Chief Counsel
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814
Philip.Wyels@waterboards.ca.gov

As to Los Angeles Water Board:

Adriana Nunez, Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814
Email: Adriana.Nunez@waterboards.ca.gov

As to OCWD:

Orange County Water District
P.O. Box 8300
Fountain Valley, CA 92728-8300
Attn: General Manager

With a copy to:

Miller & Axline
1050 Fulton Avenue, Suite 100
Sacramento, CA 95825
Attn: Justin Massey, Esq.
Email: jmassey@milleraxline.com

As to Montana:

Montana Department of Environmental Quality
PO Box 200901
Helena, MT 59620-0901
Attn: Jonathan Morgan, Legal Counsel
Email: JMorgan3@mt.gov

Montana NRDP
P.O. Box 201425
Helena, MT 59620-1425
Attn: Chief Legal Counsel
Email: khausrath@mt.gov

As to the Debtors:

Soco West, Inc. c/o M3 Partners
1700 Broadway, 19th Floor
New York, NY 10019
Attn: Mo Meghji
Email: mmeghji@m-3partners.com & wcd@m3-partners.com

With copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
333 West Wolf Point Plaza
Chicago, IL 60654
Attn: Chad Husnick & Charles Sterrett
Email: chad.husnick@kirkland.com & charles.sterrett@kirkland.com

As to the Berkshire Entities:

National Indemnity Company
100 Stamford Pl
Stamford, CT 06902-6740
Attn: Brian Snover
Email: bsnover@berkre.com

With copy (which shall not constitute notice) to:

Munger, Tolles & Olson LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Attn: Seth Goldman
Email: seth.goldman@mto.com

As to the DBUS Entities:

DB US Holding Corporation
81 Main Street, # 504
White Plains, NY 10601
Attn: Vicki L. Hassman, President & Chief Executive Officer
Email: vicki.hassman@dbusholding.com

With copy (which shall not constitute notice) to:

Husch Blackwell LLP
4801 Main Street, Suite 1000
Kansas City, MO 64112
Attn: John J. Cruciani
Email: john.cruciani@huschblackwell.com

As to Brenntag:

Brenntag North America, Inc.
550 E Swedesford Rd.
Wayne, PA 19087
Attn: Jaime Skinner
Email: jaime.skinner@brenntag.com

With copy (which shall not constitute notice) to:

Latham & Watkins LLP
10250 Constellation Blvd., Suite 1100
Los Angeles, CA 90067
Attn: Jeff Bjork & Amy Quartarolo
Email: jeff.bjork@lw.com & amy.quartarolo@lw.com

XVIII. JUDICIAL APPROVAL AND PUBLIC COMMENT

46. This CD and Environmental Settlement Agreement shall be subject to the approval of the Bankruptcy Court. The Debtors shall promptly seek approval of their entry into this CD and Environmental Settlement Agreement under Bankruptcy Rule 9019 and any applicable provisions of the Bankruptcy Code; *provided* that the Debtors shall not request a hearing on any such motion seeking such approval until after the completion of the public comment period contemplated by Paragraph 47 of this CD and Environmental Settlement Agreement; *provided, further*, that nothing in this Paragraph 46 and Paragraph 47 of this CD and Environmental Settlement Agreement shall prevent the Debtors from setting a fourteen (14)-day objection deadline for any and all objections to such motion by parties in interest in the Bankruptcy Cases based on the terms and conditions of this CD and Environmental Settlement Agreement in the form attached to any such motion; *provided, however*, such objection deadline shall be separate from and not apply to the objection deadline described below in Paragraph 48 of this CD and Environmental Settlement Agreement.

47. This CD and Environmental Settlement Agreement shall be lodged with the Bankruptcy Court and shall thereafter be subject to a period of public comment following publication of notice of this CD and Environmental Settlement Agreement in the *Federal Register*, in a Montana daily newspaper of general circulation in the area affected (per Section 75-10-713, Montana Code Annotated), in the California Administrative Register, and in commercial publications if appropriate. The public comment period provided for in this Paragraph 47 may run concurrently with any notice period required pursuant to

Bankruptcy Rule 2002 or applicable local rule in connection with judicial approval of Debtors' entry into this CD and Environmental Settlement Agreement pursuant to the preceding Paragraph 46. Montana also has an obligation to conduct a public comment period pursuant to Section 75-10-713, Montana Code Annotated. Montana will coordinate with the United States, on behalf of the EPA, on its response to any comments related to the Lockwood Solvent Site and/or general sufficiency of the settlement.

48. After the conclusion of the public comment period, the United States, on behalf of EPA; DTSC; and Montana will file notice with the Bankruptcy Court of any comments received, as well as the United States', DTSC's, and Montana's responses to those comments or notice that they have not received any timely comments; *provided* that, to the extent that there are any comments received by the United States, on behalf of EPA; DTSC; and Montana, such notice filed with the Bankruptcy Court shall set a separate fourteen (14)-day objection period for parties in interest in these Bankruptcy Cases to object solely on the basis of the content of any such notice prior to a hearing on the motion contemplated by Paragraph 46 of this CD and Environmental Settlement Agreement. The United States, DTSC, and Montana reserve the right to withdraw or withhold their consent if the comments regarding this CD and Environmental Settlement Agreement disclose facts or considerations which indicate that this CD and Environmental Settlement Agreement is not in the public interest.

49. If for any reason this CD and Environmental Settlement Agreement is (a) withdrawn by the United States, on behalf of EPA; DTSC; or Montana as provided in Paragraph 48 or (b) not approved by the Bankruptcy Court; then (i) this CD and

Environmental Settlement Agreement shall otherwise be null and void, and the Parties shall not be bound hereunder or under any documents executed in connection herewith; (ii) the Parties shall have no liability to one another arising out of or in connection with this CD and Environmental Settlement Agreement or under any documents executed in connection herewith; and (iii) this CD and Environmental Settlement Agreement and any documents prepared in connection herewith shall have no residual or probative effect or value.

50. If after this CD and Environmental Settlement Agreement becomes effective, the Bankruptcy Cases are dismissed or converted to cases under chapter 7 of the Bankruptcy Code before the effective date of a Confirmed Plan but after entry of an order of the Bankruptcy Court approving the Contributing Parties Settlement Agreement, then (i) the NICO Payment shall be paid pursuant to Paragraph 6 of this CD and Environmental Settlement Agreement and allocated among the Government Environmental Creditors in accordance with Paragraph 6 of this CD and Environmental Settlement Agreement; (ii) after such NICO Payment has been made and disbursed, subject to Paragraph 6 of this CD and Environmental Settlement Agreement, the covenants provided by the Government Environmental Creditors in this CD and Environmental Settlement Agreement to the Berkshire Entities, the DBUS Entities, and Brenntag shall go into effect as provided herein; (iii) this CD and Environmental Settlement Agreement shall be effective as to the Government Environmental Creditors, the Berkshire Entities, the DBUS Entities, and Brenntag *vis-à-vis* each other in all other respects; and (iv) this CD and Environmental Settlement Agreement shall be effective as to the Debtors (and the Debtors' legal successors and assigns (including any reorganized or wind-down Debtors, and any trust,

plan administrator or trustee established under a chapter 11 plan, chapter 7 trustee, or chapter 11 trustee but only in their capacity as such entity)) and the Government Environmental Creditors *vis-à-vis* each other in all respects other than with respect to the covenants set forth in Paragraphs 32 and 37 and the application of the covenants in Paragraph 32 as set forth in Paragraph 33.

XIX. SUPPORT AND PLAN-RELATED OBLIGATIONS

51. Subject to the occurrence of the Effective Date, the Debtors (a) shall conform the Filed Plan to incorporate the Agreed Plan Provisions and to be otherwise consistent with the terms and conditions of this CD and Environmental Settlement Agreement such that it constitutes a Proposed Plan; (b) shall provide to the Government Environmental Creditors a minimum of thirty (30) Days prior to a hearing to confirm a Proposed Plan to consult with the Debtors concerning the Proposed Plan, including providing comments to the Debtors, and the Debtors agree to consider such comments provided by the Government Environmental Creditors; (c) unless otherwise ordered by the Bankruptcy Court, shall not amend a Proposed Plan in a manner that is materially inconsistent with the terms and provisions of this CD and Environmental Settlement Agreement or take any other action in the Bankruptcy Cases that is materially inconsistent with the terms and provisions of this CD and Environmental Settlement Agreement; and (d) shall serve the Government Environmental Creditors with any motion to amend a Confirmed Plan as soon as reasonably practicable after its confirmation; *provided* that, with respect to clause (d) of this Paragraph 51, the Debtors shall consult with the Government Environmental Creditors

regarding any such amendment in the event such amendment pertains to the terms of this CD and Environmental Settlement Agreement.

52. Subject to the occurrence of the Effective Date, the Government Environmental Creditors (a) shall not oppose any term or any provision of a Proposed Plan that is directly addressed by and consistent with this CD and Environmental Settlement Agreement and the Contributing Parties Settlement Agreement; (b) shall provide affirmative support, in a manner mutually acceptable (not to be unreasonably withheld, conditioned, or delayed) to the Parties, of any terms and provisions of a Proposed Plan that are directly addressed by and not inconsistent with this CD and Environmental Settlement Agreement in response to any objections thereto raised by a person or entity not party to this CD and Environmental Settlement Agreement; and (c) shall provide affirmative support, in the form of the notice set forth in Appendix D, of the Settlement Motion approving the Contributing Parties Settlement (as amended by Docket No. 1849) Agreement (provided that it is not inconsistent with this CD and Environmental Settlement Agreement and that the proposed language of Paragraph 43 of this CD and Environmental Settlement Agreement is included in any order approving the Contributing Parties Settlement Agreement).

53. The Parties reserve all other rights and defenses they may have with respect to a Proposed Plan.

54. Any order entered by the Bankruptcy Court approving this CD and Environmental Settlement Agreement shall contain language, mutually acceptable (not to be unreasonably withheld, conditioned, or delayed) to the Debtors and the applicable

Government Environmental Creditors, providing that the Government Environmental Creditor Settlement Objections shall be deemed withdrawn as of the Effective Date; *provided, however*, that if the Contributing Parties Settlement Agreement is not approved by the Bankruptcy Court or if such approval is overturned on appeal, the Government Environmental Creditors, as applicable, may reinstate the Government Environmental Creditor Settlement Objections, as appropriate.

XX. INTEGRATION, AMENDMENTS, AND COUNTERPARTS

55. This CD and Environmental Settlement Agreement and any other documents to be executed in connection herewith or incorporated by reference herein shall constitute the sole and complete agreement of the Parties with respect to the matters addressed herein. For the avoidance of doubt, as provided in Paragraph 16 of this CD and Environmental Settlement Agreement, nothing in this CD and Environmental Settlement Agreement impairs the consent decree *United States of America et al. v. American Industries, Inc. et al.*, Civ. No. 1:07-CV-05334, in the District of New Jersey in connection with the Martin Aaron Site.

56. This CD and Environmental Settlement Agreement may not be amended except by a writing signed by all the Parties and approved by the Bankruptcy Court.

57. This CD and Environmental Settlement Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same agreement.

XXI. RETENTION OF JURISDICTION

58. The Bankruptcy Court (or, upon withdrawal of the Bankruptcy Court's reference or the closure or dismissal of the Bankruptcy Cases, the United States District Court for the District of New Jersey) shall retain jurisdiction, to which the Parties consent, over the subject matter of this CD and Environmental Settlement Agreement and the Parties for the duration of the performance of the terms and provisions of this CD and Environmental Settlement Agreement for the purpose of enabling any of the Parties to apply to the Bankruptcy Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or interpretation of this CD and Environmental Settlement Agreement or to effectuate or enforce compliance with its terms. Each Party consents to the jurisdiction of the United States Bankruptcy Court for the District of New Jersey (or, upon withdrawal of the Bankruptcy Court's reference or the closure or dismissal of the Bankruptcy Cases, the United States District Court for the District of New Jersey) to adjudicate any request for approval of the settlement contemplated by and entry into this CD and Environmental Settlement Agreement and to enter an order approving and authorizing the same.

[Signature Pages Follow]

The undersigned party hereby enters into this CD and Environmental Settlement Agreement in *In re Whittaker, Clark & Daniels*, Case No. 23-13575 (Bankr. D.N.J.).

FOR THE UNITED STATES OF AMERICA:

ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Date: _____

By: [Executed signature page on file with Debtors]
JEANNE T. COHN
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044

The undersigned party hereby enters into this CD and Environmental Settlement Agreement in *In re Whittaker, Clark & Daniels*, Case No. 23-13575 (Bankr. D.N.J.).

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Date: _____ By: [Executed signature page on file with Debtors]
CRAIG J. PRITZLAFF
Acting Assistant Administrator
Office of Enforcement and Compliance
Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Date: _____ By: [Executed signature page on file with Debtors]
CYRUS M. WESTERN
Regional Administrator
U.S. Environmental Protection Agency,
Region 8
1595 Wynkoop Street
Denver, Colorado 80202

Date: _____ By: [Executed signature page on file with Debtors]
KENNETH C. SCHEFSKI
Regional Counsel
U.S. Environmental Protection Agency,
Region 8
1595 Wynkoop Street
Denver, Colorado 80202

Date: _____ By: [Executed signature page on file with Debtors]
AARON URDIALES
Division Director Superfund and Emergency
Response Division
U.S. Environmental Protection Agency,

Region 8
1595 Wynkoop Street
Denver, Colorado 80202

Date: _____

By: [Executed signature page on file with Debtors]

MATTHEW KRYMAN
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency,
Region 8
1595 Wynkoop Street
Denver, Colorado 80202

The undersigned party hereby enters into this CD and Environmental Settlement Agreement in
In re Whittaker, Clark & Daniels, Case No. 23-13575 (Bankr. D.N.J.).

FOR DTSC:

Date: _____

By: [Executed signature page on file with Debtors]
Elizabeth Anne Berg
Site Mitigation & Restoration Program Deputy
Director

APPROVED AS TO FORM:

Date: _____

By: [Executed signature page on file with Debtors]
James Potter
Deputy Attorney General

The undersigned parties hereby enter into this CD and Environmental Settlement Agreement in *In re Whittaker, Clark & Daniels*, Case No. 23-13575 (Bankr. D.N.J.).

FOR THE STATE WATER BOARD:

Date: _____ By: [Executed signature page on file with Debtors]
Philip Wyels for Michael Lauffer
Chief Counsel

FOR THE LOS ANGELES WATER BOARD:

Date: _____ By: [Executed signature page on file with Debtors]
Susan Arrendondo
Executive Officer

APPROVED AS TO FORM:

Date: _____ By: [Executed signature page on file with Debtors]
Barbara Spiegel
Deputy Attorney General

The undersigned party hereby enters into this CD and Environmental Settlement Agreement in *In re Whittaker, Clark & Daniels*, Case No. 23-13575 (Bankr. D.N.J.).

FOR THE STATE OF MONTANA:

Date: _____

By: [Executed signature page on file with Debtors]
GREG GIANFORTE
Governor of the State of Montana

APPROVED AS TO FORM:

Date: _____

By: [Executed signature page on file with Debtors]
WOMBLE BOND DICKINSON (US) LLP
Kevin J. Mangan
1313 N. Market Street, Suite 1200
Wilmington, Delaware 19801
Tel: (302) (252)-4320
Fax: (302) (252)-4330
kevin.mangan@wbd-us.com

The undersigned party hereby enters into this CD and Environmental Settlement Agreement in *In re Whittaker, Clark & Daniels*, Case No. 23-13575 (Bankr. D.N.J.).

FOR OCWD:

Date: _____

By: [Executed signature page on file with Debtors]
John Kennedy, P.E.
General Manager

APPROVED AS TO FORM:

Date: _____

By: [Executed signature page on file with Debtors]
Justin Massey
Miller & Axline
Attorneys for Orange County Water District

The undersigned parties hereby enter into this CD and Environmental Settlement Agreement in *In re Whittaker, Clark & Daniels*, Case No. 23-13575 (Bankr. D.N.J.).

FOR THE DEBTORS:

Date: _____

By: [Executed signature page on file with Debtors]
Mohsin Y. Meghji
Chief Restructuring Officer

The undersigned parties hereby enter into this CD and Environmental Settlement Agreement in *In re Whittaker, Clark & Daniels*, Case No. 23-13575 (Bankr. D.N.J.).

FOR THE BERKSHIRE ENTITIES:

Date: _____

By: [Executed signature page on file with Debtors]
Brian Snover

The undersigned parties hereby enter into this CD and Environmental Settlement Agreement in *In re Whittaker, Clark & Daniels*, Case No. 23-13575 (Bankr. D.N.J.).

FOR THE DBUS ENTITIES:

Date: _____

By: [Executed signature page on file with Debtors]
Vicki Hassman

The undersigned parties hereby enter into this CD and Environmental Settlement Agreement in *In re Whittaker, Clark & Daniels*, Case No. 23-13575 (Bankr. D.N.J.).

FOR BRENNTAG:

Date: _____

By: [Executed signature page on file with Debtors]

Jaime Skinner

General Counsel, Brenntag North America, Inc.

Index of Appendices

Appendix

Description

A	List of “Brenntag Inc. Subsidiaries” as Defined in the 2003 MSPA
B	Site/Spill ID Numbers
C	Joinder Agreement
D	Form of Notice of Support of Settlement Motion and Contributing Parties Settlement Agreement

Appendix A

List of “Brenntag Inc. Subsidiaries” as Defined in the 2003 MSPA

Brenntag Mid-South, Inc.
Brenntag Northeast, Inc.
Brenntag Southeast, Inc.
Brenntag Southwest, Inc.

Appendix B

Site/Spill ID Numbers

Site Name	SSID	Site ID
Cooper Drum Co. Superfund Site	091N	0903253
Lockwood Solvent Ground Water Plume Superfund Site	08AK	0801709
Omega Chemical Corporation Superfund Site	09BC	0903349

Appendix C

Joinder Agreement

JOINDER TO CONSENT DECREE AND ENVIRONMENTAL SETTLEMENT AGREEMENT

_____, 202__

The undersigned is executing and delivering this joinder (this “Joinder”) to that certain Consent Decree and Environmental Settlement Agreement, dated as of _____, 202__, by and among the Parties (as defined therein) thereto (as amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the “CD and Environmental Settlement Agreement”). Capitalized terms used in this Joinder but not otherwise defined herein shall have the meanings ascribed to such terms in the CD and Environmental Settlement Agreement.

By executing and delivering this Joinder to the Debtors, with a copy to the Berkshire Entities, the DBUS Entities, and Brenntag, the undersigned hereby agrees to become a party to, to be bound by, and comply with the provisions of the CD and Environmental Settlement Agreement as, and shall be deemed to be, a “Government Environmental Creditor” and the specific “Governmental Environmental Creditor” that sold or transferred one or more of its Stipulated Allowed Claims to the undersigned in accordance with Paragraph 29 of the CD and Environmental Settlement Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has executed this Joinder as of the date first above written.

By: _____
Name:
Title:

Notice Details:

Notice Party:
Address:
Attn:
Email:

Appendix D

**Form of Notice of Support of Settlement
Motion and Contributing Parties Settlement Agreement**

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
**Caption in Compliance with Order Directing
Joint Administration (Doc. No. 72)**

In Re:

WHITTAKER, CLARK & DANIELS, INC., et
al.,

Debtors.¹

Chapter 11

Case No. 23-13575 (MBK)

(Jointly Administered)

**GOVERNMENT ENVIRONMENTAL CREDITORS' STATEMENT OF SUPPORT FOR
THE CONTRIBUTING PARTIES SETTLEMENT AGREEMENT**

On [●], the Government Environmental Creditors, Debtors, and the Contributing Parties entered into that certain Consent Decree and Environmental Settlement Agreement (the "CD and Environmental Settlement Agreement"),² subject to the occurrence of the Effective Date of the CD and Environmental Settlement Agreement.

Pursuant to the CD and Environmental Settlement Agreement, the Government Environmental Creditors support the Settlement Motion approving the Contributing Parties Settlement Agreement (as amended by Docket No. 1849).

¹ The Debtors in these chapter 11 cases, along with the last four digits of the Debtors' federal tax identification number, are Whittaker, Clark & Daniels, Inc. (4760), Brilliant National Services, Inc. (2113); L.A. Terminals, Inc. (6800); and Soco West, Inc. (3400). The location of Debtors' principal place of business and the Debtors' service address in these chapter 11 cases is 100 First Stamford Place, Stamford, Connecticut 06902.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the CD and Environmental Settlement Agreement.

The Parties to the CD and Environmental Settlement Agreement have agreed, as part of the CD and Environmental Settlement Agreement, that this statement satisfies the Government Environmental Creditors' obligations under Paragraph 52(c) of the CD and Environmental Settlement Agreement.

The Government Environmental Creditors reserve the right to withdraw their support in the event that the Debtors and the Contributing Parties make any changes to the Contributing Party Settlement Agreement contrary to the terms of the CD and Environmental Settlement Agreement.

Dated: [●], 2025

/s/ Draft

**UNITED STATES DEPARTMENT OF JUSTICE
ON BEHALF OF U.S. ENVIRONMENTAL
PROTECTION AGENCY**

Jeanne T. Cohn
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 514-4160
jeanne.cohn@usdoj.gov

*United States Department of Justice on behalf of U.S.
Environmental Protection Agency*

/s/ Draft

CALIFORNIA DEPARTMENT OF JUSTICE

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/s/ Draft

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*Program and Montana Department of Environmental
Quality*

Toxic Substances Control