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Re: 12h

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:)	
)	
NATIONAL GYPSUM COMPANY,)	
a Delaware Corporation)	
)	
AANCOR HOLDINGS, INC.,)	
a Delaware Corporation	)	Jointly Administered
	)	Chapter 11
Debtors.	)	BK-390-37213-SAF-11
	)	BK-390-37214-SAF-11

**NOTICE OF FILING OF FULLY EXECUTED SECOND SETTLEMENT AGREEMENT
BETWEEN THE UNITED STATES AND THE DEBTORS**

The United States of America, on behalf of the U.S. Environmental Protection Agency and the U.S. Department of the Interior, hereby files this notice of filing of the fully executed Second Settlement Agreement between the United States and the Debtors originally lodged with the Court on November 25,

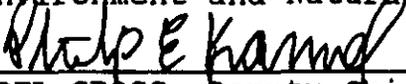
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1992 and its fully executed attachments: The Salford Quarry Custodial Trust document (Attachment A) and The Salford Quarry Custodial Trust Escrow Agreement (Attachment B). Although the foregoing have previously been filed with the Court, the attached originals have been fully executed by the respective signatories to the documents.

Dated: January 27, 1993

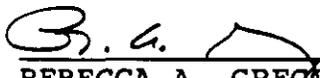
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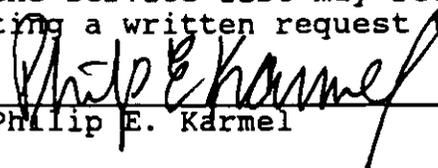
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS

IN RE:)	
)	
NATIONAL GYPSUM COMPANY,	)	BK-390-37213-SAF-11
a Delaware Corporation	)	BK-390-37214-SAF-11
)	
AANCOR HOLDINGS, INC.,)	
a Delaware Corporation	)	Jointly Administered
	)	Chapter 11
)	
Debtors.)	

CERTIFICATE OF SERVICE

I hereby certify that "Notice of Filing of Fully Executed Second Settlement Agreement Between the United States and the Debtors" and the attachment thereto (the fully executed Second Settlement Agreement and its fully executed attachments) were served by sending a copy to David F. Williams, Esq., CADWALADER, WICKERSHAM & TAFT, 1333 New Hampshire Ave., N.W., Washington, D.C. 20036 via first class mail, overnight delivery, or hand delivery on January 27, 1993 and by sending a copy of the Notice (without attachment) to the attached service list via first class mail on January 28, 1993. Any party on the service list may receive a copy of the attachment by submitting a written request to the undersigned.


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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:)
)
NATIONAL GYPSUM COMPANY,) Case No. 390-37213-SAF-11
a Delaware corporation,)
)
AANCOR HOLDINGS, INC.,) Case No. 390-37214-SAF-11
a Delaware corporation,)
)
Debtors.) Jointly Administered
) Chapter 11
)
_____)

SECOND SETTLEMENT AGREEMENT

Debtors, National Gypsum Company and Aancor Holdings, Inc. ("Debtors") and the United States of America ("United States") hereby enter into this Second Settlement Agreement ("Second Agreement") dated as of November 25, 1992 in final settlement of the claim filed by the United States against Debtors in the above-captioned bankruptcy proceedings.

WHEREAS Debtors filed voluntary petitions for bankruptcy in this Court under Chapter 11 of the Bankruptcy Code on October 28, 1990 and are currently Debtors and Debtors-in-Possession;

WHEREAS the United States on behalf of the United States Environmental Protection Agency ("EPA") and the United States Department of the Interior ("DOI") filed a proof of claim in these bankruptcy proceedings on May 29, 1991 (the "Proof of Claim"), alleging liability of Debtors under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607;

AR200146

WHEREAS the United States alleged in the Proof of Claim that, inter alia, Debtors were liable for cleanup costs incurred by the United States at certain sites at which there has been a release or threat of release of a hazardous substance. The Proof of Claim also contingently addresses Debtors' alleged liability under CERCLA with respect to such sites for response costs not yet incurred and also for injury, destruction to, or loss of natural resources within the meaning of CERCLA Section 107(a)(4)(C), to the extent either of those categories of costs were considered "claims" within the meaning of the Bankruptcy Code;

WHEREAS among the sites set forth in the United States' Proof of Claim were the Salford Quarry in Lower Salford Township, Pennsylvania ("the Salford Quarry") and the Asbestos Dump Site in and near Millington, New Jersey ("the Asbestos Dump Site");

WHEREAS Debtors filed on August 2, 1991, Debtors' Objection to Allowance of Claim of the United States, opposing the Proof of Claim and asserting counterclaims against the United States. On October 25, 1991, Debtors filed their Objection To Allowance of Claim of the United States of America and Amended Counterclaim;

WHEREAS the United States filed on March 16, 1992, an Amendment to Proof of Claim purporting to add a count under Section 7003 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. §

6973, to its previously filed claim under Section 107 of CERCLA, 42 U.S.C. § 9607, for the Salford Quarry;

WHEREAS the Bankruptcy Court on May 5, 1992, entered an Order (docket number 3383) striking the United States' Amendment to Proof of Claim;

WHEREAS Debtor National Gypsum Company is the current owner of the Salford Quarry;

WHEREAS the United States filed on May 5, 1992, an Application for Reimbursement of Administrative Expenses alleging that the Debtors were liable under Section 107 of CERCLA and Section 7003 of RCRA, at the Salford Quarry;

WHEREAS the Debtors filed on May 15, 1992, Debtors' Objection to the Application for Reimbursement of Administrative Expenses filed by the United States;

WHEREAS by a settlement agreement dated July 15, 1992 ("the First Agreement"), the United States and the Debtors agreed to a settlement of certain of the claims asserted by the United States in its Proof of Claim, subject to the terms and conditions of the First Agreement;

WHEREAS National Gypsum Company entered into a conditional consent agreement with EPA Region III in March 1988 (administrative docket no. III-88-20-DC) for the conduct of certain investigations and studies known as a "Remedial Investigation and Feasibility Study" or "RI/FS") at the Salford Quarry, subject to the terms and conditions of the consent agreement ("the Salford Quarry RI/FS Consent Agreement");

AR200148

WHEREAS the Asbestos Dump Site has been divided into three Operable Units, known as (1) Asbestos Dump Site Operable Unit One ("the Millington Main Site"); (2) Asbestos Dump Site Operable Unit Two ("ADS OU-2"), consisting of the White Bridge Road Site and New Vernon Road Site; and (3) Asbestos Dump Site Operable Unit Three ("ADS OU-3"), known as the Dietzman Tract;

WHEREAS the Bankruptcy Court entered on July 28, 1992 an Order on the United States' Application for Administrative Expenses pertaining to the Salford Quarry (docket number 3888); entered on July 30, 1992 an Order on Estimation of the United States' general unsecured claim for the Salford Quarry (docket number 3919); entered on July 30, 1992 an Order on Estimation of the United States' Claim for ADS OU-3 (docket number 3920); entered on July 30, 1992 an Order on Estimation of the United States' Claim for ADS OU-2 (docket number 3921); and entered on July 30, 1992 an Order on Estimation of the United States' Claim for Legal Fees and Expenses (docket number 3922);

WHEREAS the United States has filed a notice of appeal (to the District Court) with respect to three of the foregoing Orders of the Bankruptcy Court (the Orders with docket numbers 3888, 3919, and 3920) as well as the Order of the Bankruptcy Court entered on May 5, 1992 (docket number 3383);

WHEREAS the Salford Quarry RI/FS Consent Agreement provided that said agreement would terminate in the event of a final decision by an authorized court reversing or enjoining the listing of the Salford Quarry on the National Priorities List;

WHEREAS on June 19, 1992, the United States Court of Appeals for the District of Columbia Circuit vacated the listing of the Salford Quarry on the National Priorities List and remanded the matter to EPA in National Gypsum Co. v. United States EPA, 968 F.2d 40 (D.C. Cir. 1992);

WHEREAS on August 11, 1992, the United States District Court for the Northern District of Texas, Dallas Division, affirmed the Bankruptcy Court's May 5, 1992 Order (docket number 3383) striking the United States' Amendment to Proof of Claim seeking to add a count under Section 7003 of RCRA with respect to the Salford Quarry;

WHEREAS on October 9, 1992, the United States filed a notice of appeal (to the Court of Appeals for the Fifth Circuit) with respect to the foregoing August 11, 1992 Order of the United States District Court;

WHEREAS the parties have agreed to compromise and settle the general unsecured and administrative expense claims of the United States under CERCLA and Section 7003 of RCRA at the Salford Quarry, ADS OU-2, and ADS OU-3, and all counterclaims related thereto, on the terms set forth herein below to spare the expense and uncertainty of continued litigation;

WHEREAS the Debtors and the United States recognize that this Second Agreement has been negotiated by the Debtors and the United States in good faith and that this Second Agreement is fair, reasonable, and in the public interest.

NOW, THEREFORE, without the admission or any adjudication of any issues of fact or law, and upon the consent and agreement of the parties to this Second Agreement by their attorneys and authorized officials and the Bankruptcy Court, Debtors and the United States hereby agree as follows:

I. AUTHORITY

1. This Second Agreement shall apply to and be binding upon Debtors and the United States. The undersigned representatives for the Debtors and the Assistant Attorney General for the Environment and Natural Resources Division certify that they are fully authorized to execute and bind the Debtors and the United States, respectively, to this Second Agreement. The parties agree not to contest the validity of this Second Agreement in any subsequent proceeding arising from it.

II. BANKRUPTCY COURT APPROVAL

2. This Second Agreement is expressly subject to approval by the Bankruptcy Court. After this Second Agreement has been executed by the United States and the Debtors, and the United States provides final approval under Section XII of this Second Agreement, the parties shall promptly move the Bankruptcy Court for approval of the Second Agreement. Approval of this Second Agreement by the Bankruptcy Court may be done as part of confirmation of a plan of reorganization. In the event that this Second Agreement is not finally approved by the Bankruptcy Court or on appeal, the Second Agreement shall be null and void and

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both the United States and the Debtors reserve all their rights with respect to the pending appeals of the United States.

III. EFFECTIVE DATE OF AGREEMENT

3. The Effective Date of this Second Agreement ("Effective Date") shall be the date of the Bankruptcy Court's approval of this Second Agreement in accordance with Section II.

IV. TERMINATION OF CERTAIN ADMINISTRATIVE AGREEMENTS

4.(a) The United States acknowledges that the Salford Quarry RI/FS Consent Agreement entered into between National Gypsum Company and EPA Region III in March 1988 has been terminated. Any penalties under the Salford Quarry RI/FS Consent Agreement are hereby waived.

(b) In April 1985, National Gypsum Company entered into an administrative order on consent with EPA Region II for the conduct of an RI/FS for the Asbestos Dump Site (Administrative Order No. CERCLA-50103). This Administrative Order No. CERCLA-50103 shall be terminated on the Effective Date of this Second Agreement and any penalties under Order No. CERCLA-50103 are hereby waived.

V. ALLOWANCE OF CLAIM

5. In settlement of Debtors' alleged liability to the United States under CERCLA with respect to ADS OU-2, and any counterclaims relating thereto, Debtors agree that the Proof of Claim in connection with ADS OU-2 shall be allowed as a general unsecured pre-petition claim against Debtor National Gypsum

Company in the amount of \$7,270,612 to the United States on behalf of EPA.

6. In settlement of Debtors' alleged liability to the United States under CERCLA with respect to ADS OU-3, and any counterclaims relating thereto, Debtors agree that the Proof of Claim in connection with ADS OU-3 shall be allowed as a general unsecured pre-petition claim against Debtor National Gypsum Company in the amount of \$3.5 million to the United States on behalf of DOI. This \$3.5 million claim shall be deemed to be in restitution for natural resources damages at ADS OU-3.

7. In settlement of Debtors' alleged liability to the United States under CERCLA and Section 7003 of RCRA with respect to the Salford Quarry, Debtors agree that the Proof of Claim and Application for Reimbursement of Administrative Expenses in connection with the Salford Quarry shall be allowed as provided for below:

(a) An administrative expense claim under 11 U.S.C. § 503(b)(1)(A) against Debtor National Gypsum Company in the amount of \$2 million shall be allowed in favor of the United States on behalf of EPA; and

(b) A general unsecured claim in the amount of \$10 million shall be allowed in favor of the Salford Quarry Trust Escrow to be established substantially in the form set out in the Salford Quarry Trust Escrow Agreement (Attachment B to this Second Agreement), the final terms of which shall be subject to agreement by the United States and the Debtors prior to approval

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of the Second Agreement by the Bankruptcy Court. All funds in the Salford Quarry Trust Escrow shall be received, managed, and disbursed in accordance with the terms of the Salford Quarry Trust Escrow Agreement.

8. In settlement of Debtors' alleged liability to the United States under CERCLA for legal fees and expenses incurred by the United States in connection with litigation of its claims against the Debtors, and any counterclaims relating thereto, Debtors agree that the Proof of Claim shall be allowed as a general unsecured pre-petition claim against Debtor National Gypsum Company in the amount of \$293,536.00 to the United States on behalf of EPA.

9. The payments made pursuant to this Section V of this Second Agreement are settlement payments of claims for response costs and natural resource damages and are not fines or penalties.

10. The United States agrees that Debtor Aancor Holdings, Inc. is not liable to the United States for any claim asserted in its Proof of Claim. The United States' Proof of Claim shall be deemed withdrawn as to Aancor Holdings, Inc.

11. In no event shall payment to the United States by National Gypsum Company under this Second Agreement be made by assignment to the United States of any other claims that the Debtors potentially have against third parties, including claims for contribution under CERCLA.

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12.(a) Payment by the Debtors of any cash payment pursuant to Paragraph 7(a) of this Second Agreement shall be made on the effective date of the confirmed Plan of Reorganization and shall be by Electronic Funds Transfer (EFT or wire transfer) to the U.S. Department of Justice lockbox bank, and referencing: CERCLA Number 03-Y3; DOJ Case Number 90-11-2-689; and the U.S. Attorney's Office File Number 91-04-098. Payment shall be made in accordance with instructions provided by the United States to the Debtors prior to the Effective Date. Any EFTs received at the U.S. Department of Justice lockbox bank after 11:00 a.m. (Central Time) will be credited on the next business day.

(b) Any securities to be distributed to the United States or the Salford Quarry Trust Escrow on allowed general unsecured claims hereunder shall be distributed as soon as possible after the effective date of the confirmed plan of reorganization ("Plan of Reorganization"), as defined therein, but in any event no later than distributions to other general unsecured creditors, to such designated holder and sent to such address as the United States shall notify Debtors not later than 30 days following such effective date.

(c) Copies of all checks, securities and transmittal letters, and EFT or wire transfer documents evidencing National Gypsum Company's payments to the United States or the Salford Quarry Trust Escrow pursuant to this Second Agreement shall be sent by first class mail to each of the following:

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Regional Counsel
U.S. Environmental Protection Agency
Region II
26 Federal Plaza - Room 437
New York, New York 10278

Regional Hearing Clerk (3RC00)
Office of Regional Counsel
U.S. Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

Chief, Environmental Enforcement Section
Re: DOJ #90-11-2-689
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044

John Wheeler
Office of Enforcement
LE-134S
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Associate Solicitor
Division of Conservation and Wildlife
U.S. Department of the Interior
Washington, D.C. 20240

Chief, Division of Finance
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive
Room 380
Arlington, Virginia 22203

VI. SALFORD QUARRY TRUST

13. In settlement of Debtors' alleged liability to the United States at the Salford Quarry under the Proof of Claim and in settlement of any objections the United States may have under the Bankruptcy Code or otherwise to National Gypsum Company's sale or transfer of its ownership interest in the Salford Quarry to another entity, the United States hereby agrees that it will

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not oppose National Gypsum Company's transfer of ownership of the Salford Quarry to the Salford Quarry Trust to be established by National Gypsum Company substantially in the form set out in The Salford Quarry Custodial Trust document (Attachment A to this Second Agreement), the final terms of which shall be subject to agreement by the United States and the Debtors prior to approval of the Second Agreement by the Bankruptcy Court. Neither the United States nor the Debtors shall be or shall be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the Salford Quarry Trust or the Salford Quarry Trust Escrow.

14. For the purposes of this Section VI, "response costs" incurred at the Salford Quarry shall mean all costs incurred by the United States (including those costs incurred by EPA or any other agency or department of the United States) in connection with the Salford Quarry, including, but not limited to the following: direct and indirect costs that the United States incurs in reviewing or developing plans, studies, reports and other items pertaining to the Salford Quarry or in performing, or otherwise implementing, overseeing, or enforcing removal, remedial, or other cleanup actions at the Salford Quarry, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, attorneys fees, and just compensation costs incurred by the United States in connection with the Salford Quarry; however, "response costs" for the purposes of Section VI shall not include the cost incurred in

pursuing enforcement actions against persons other than the Debtors (with the exception of actions to obtain access, which costs shall be deemed "response costs" for the purposes of Section VI). In order to reimburse the United States for such response costs incurred and to be incurred at the Salford Quarry, the Salford Quarry Trust Escrow shall make an annual payment by the method specified in Paragraph 12(a) of this Second Agreement to the United States to reimburse the United States for any unreimbursed response costs the United States incurs at the Salford Quarry during the preceding year. (When determining whether response costs have been reimbursed from sources other than those monies paid to the Superfund pursuant to this Second Agreement, monies received from such other sources shall first be credited toward the costs incurred by the United States in pursuing enforcement actions against such other sources and the remainder of such monies from such other sources shall then be credited to the response costs defined above.) The \$2 million payment set forth in Section V of this Second Agreement shall be considered reimbursement for the first \$2 million in heretofore unreimbursed response costs incurred by the United States at the Salford Quarry. The United States shall provide the Salford Quarry Trust Escrow agent with an annual invoice and cost summary information to permit the Salford Quarry Trust Escrow to make its annual payment. The obligation of the Salford Quarry Trust Escrow to make the foregoing annual payment shall cease when all assets of the Salford Quarry Trust Escrow (with the exception of

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the Trust Maintenance Reserve as defined in Attachment A hereto) have been paid to the United States or after fifteen years from the Effective Date, whichever is sooner. At such time as the Salford Quarry Trust ceases to exist, all remaining assets of the Salford Quarry Trust Escrow shall be paid, transferred, or conveyed to the United States, or, in the event that a settlement agreement between the United States and one or more potentially responsible parties at the Salford Quarry provides for the transfer of the Salford Quarry, to the United States or the nominee of the United States. Such settlement agreement with such other potentially responsible party(ies) may also provide for the termination of the Salford Quarry Trust and the Salford Quarry Trust Escrow. The trustee of the Salford Quarry Trust and the Salford Quarry Trust Escrow agent shall not oppose any such settlement agreement.

15.(a) The Debtors may advance to the Salford Quarry Trust Escrow up to \$100,000 during the pendency of the above captioned bankruptcy proceeding for the purpose of funding any start up expenses of the Salford Quarry Trust or the Salford Quarry Trust Escrow.

(b) The assets of the Salford Quarry Trust Escrow may be used only for the following purposes: (i) repaying to New NGC or equivalent reorganized entity any monies advanced to the Salford Quarry Trust Escrow pursuant to Paragraph 15(a); (ii) reimbursement of the United States pursuant to Paragraph 14; (iii) payment of the administrative expenses of the Salford

Quarry Trust Escrow, including the payment of reasonable investment management and accounting fees, as set forth in the Salford Quarry Trust Escrow Agreement (Attachment B hereto); (iv) payment to the Salford Quarry Trust for the purposes set forth in the Salford Quarry Trust Escrow Agreement (Attachment B hereto). In the event that any assets of the Salford Quarry Trust Escrow are disbursed or are imminently to be disbursed for any purpose other than as set forth above, then all remaining funds in the Salford Quarry Trust Escrow (with the exception of the Trust Maintenance Reserve as defined in Attachment A hereto) shall be immediately payable to the United States in accordance with the procedure set forth in Paragraph 12(a) of this Second Agreement, except that if the United States agrees to assume responsibility for the administration and maintenance of the Salford Quarry, then all remaining funds in the Salford Quarry Trust Escrow without exception shall be immediately payable to the United States in accordance with the procedure set forth in Paragraph 12(a) of this Second Agreement and the Salford Quarry Trust and Salford Quarry Trust Escrow shall be terminated. The United States shall have a lien on all Salford Quarry Trust Escrow assets for the purposes of enforcing this Second Agreement.

16. The Salford Quarry Trust shall provide the United States and its representatives, including EPA and its contractors, access at all reasonable times to the Salford Quarry for the purposes of conducting any activity related to Salford Quarry, including, but not limited to: conducting response

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actions; conducting investigations relating to contamination at or near the Salford Quarry; obtaining samples; assessing the need for, planning, or implementing additional response actions at or near the Salford Quarry. Notwithstanding any provision of this Second Agreement, the United States retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statute or regulations.

17. The Salford Quarry Trust Escrow agent shall maintain an orderly account of Salford Quarry Trust Escrow assets and provide an income statement and balance sheet of the Salford Quarry Trust Escrow assets on an annual basis (and upon reasonable request) to the United States and the trustee of the Salford Quarry Trust. Such accounting shall include copies of bank statements and other accounts. As soon as is reasonably practicable and prudent after the effective date of the Plan of Reorganization, the Salford Quarry Trust Escrow shall convert all funds or securities distributed to it under this Second Agreement and shall invest exclusively thereafter in (a) Direct Obligations of the United States (such as U.S. Government Treasury Bonds or Notes); (b) Obligations guaranteed by agencies of the United States Government; (c) well established mutual funds that invest in the foregoing; (d) certificates of deposit to the extent insured by the U.S. Government or its agencies. Notwithstanding the foregoing, the Salford Quarry Trust Escrow is permitted to maintain a checking account at a duly chartered and federally

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deposit-insured bank to hold cash for a reasonable period of time awaiting investment, distribution, or other disbursement.

18. Notwithstanding any provision of this Second Agreement, the Salford Quarry Trust Escrow shall at the request of the United States enter into a transaction in which the \$10 million general unsecured claim recognized in Paragraph 7(b) of this Second Agreement is sold for cash or cash-equivalent monies.

VII. DISCHARGE; COVENANT NOT TO SUE; PRESERVATION OF CLAIMS

19. Upon the Effective Date of this Second Agreement, and subject to the limitations set forth in subparagraph (d) below:

(a) Any liability of Debtors and the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity) to the United States under CERCLA or Section 7003 of RCRA, 42 U.S.C. § 6973, including any liability for response costs (including, but not limited to oversight costs and costs of the United States Department of Justice) and natural resource damages incurred or sustained or to be incurred or sustained, regarding (i) ADS OU-2, (ii) ADS OU-3, (iii) the Salford Quarry, or (iv) legal fees and litigation expenses incurred by the United States in connection with its claims relating to ADS OU-2, ADS OU-3, and the Salford Quarry, shall be discharged under the Bankruptcy Court's confirmation of the Plan of Reorganization.

(b) The United States, on behalf of EPA and DOI, covenants not to sue or take any other civil judicial or

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administrative claim or action under CERCLA or Section 7003 of RCRA against the Debtors, the Salford Quarry Trust, the Salford Quarry Trust trustee, and the Salford Quarry Trust Escrow agent with respect to (i) ADS OU-2, (ii) ADS OU-3, (iii) the Salford Quarry, or (iv) legal fees and litigation expenses incurred by the United States in connection with its claims relating to ADS OU-2, ADS OU-3, and the Salford Quarry.

(c) The covenant not to sue contained in the preceding paragraph 19(b) (and the reservations thereto) shall also apply to Debtors' successors, assigns, officers, directors, subsidiaries, agents, and employees and the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity), but only to the extent that the alleged liability of the successor, assign, officer, director, subsidiary, agent, employee, and reorganized company is based solely on its status as, and in its capacity of, a successor, assign, officer, director, subsidiary, agent, employee, or reorganized company of the Debtors.

(d) Notwithstanding any other provision of this Second Agreement, this Second Agreement does not include or affect any claims that the United States or Debtors may have as to the following:

(i) Claims concerning the Millington Main Site and the Five Settled Sites addressed in the First Agreement;

(ii) Any claims at the following twenty-seven sites, none of which are presently owned or operated by National Gypsum

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Company: (a) Peak Oil/Bay Drum Co., Tampa, Florida; (b) Florence Land Recontouring Landfill, Florence Township, New Jersey; (c) Wide Beach Development, Brant, New York; (d) Sixty-Second Street Dump, Tampa, Florida; (e) Operating Industries, Inc. Landfill, Monterey Park, California; (f) Gold Coast Oil Corp., Miami, Florida; (g) Kin-Buc Landfill, Edison, New Jersey; (h) McKin Co., Gray, Maine; (i) Liquid Disposal Inc., Utica, Michigan; (j) SED Inc., Greensboro, North Carolina; (k) Cannons Engineering Corp., Bridgewater, Massachusetts; (l) Taylor Road Landfill, Hillsborough County, Florida; (m) Sand Springs Petrochemical Complex, Sand Springs, Oklahoma; (n) Ellis Road Site, Jacksonville, Florida; (o) former National Gypsum - Gold Bond, Alabama, New York, (p) former National Gypsum Co. W. Conshohocken Plant, Conshohocken, Pennsylvania; (q) former National Gypsum Co. Evansville Plant, Evansville, Pennsylvania; (r) former National Gypsum, Alexandria, Indiana; (s) American Olean Tile Company, Inc., Lansdale, Pennsylvania; (t) American Olean Tile Company, Inc., Madison County, Tennessee; (u) American Olean Tile Plant, Jackson, Tennessee; (v) American Olean Tile Co. Civ. of National Gypsum, Roseville, California; (w) Cotton Grove Road Landfill, Jackson, Tennessee; (x) Watson Jackson Landfill (alias American Olean Tile Co. Quakertown Plant), Richlandtown, Pennsylvania; (y) Gold Bond Bld Prod, Clarence Center, New York (except for any portion of this site owned by National Gypsum Company as of the Effective Date, any liability with respect to which shall be treated as if such portion were a Debtor-Owned Additional Site);

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(z) McCurtain Country Open Dump (alias Gold Bond Building Product), Broken Bow, Oklahoma; (aa) Solvents Recovery Service of New England, Southington, Connecticut. The addresses of the foregoing twenty-seven sites are set forth on Attachment C to this Second Agreement.

(iii) Any claims based on ownership or operation of any site (other than, with respect to the Salford Quarry Trust, the Salford Quarry Trust trustee, and the Salford Quarry Trust Escrow agent, the Salford Quarry) after the Bankruptcy Court's confirmation of the Plan of Reorganization or on transportation or arrangement for treatment or disposal of hazardous substances or solid waste (within the meaning of 42 U.S.C. § 6903(27)) after the Bankruptcy Court's confirmation of the Plan of Reorganization;

(iv) Any claims based on disposal of additional solid waste (within the meaning of 42 U.S.C. § 6903(27)) at the Salford Quarry or other facilities after the Bankruptcy Court's confirmation of the Plan of Reorganization; and

(v) For claims based upon the United States' enforcement of this Second Agreement.

(e) Notwithstanding any other provision of this Second Agreement, this Second Agreement does not include or affect any claims that the United States may have as to any alleged criminal liability.

20. Nothing in this Second Agreement is intended as a covenant not to sue or a release from liability for any person o.

entity other than the Debtors (and the Debtors' successors, assigns, officers, directors, subsidiaries, agents, and employees and the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)), the United States, the Salford Quarry Trust, the Salford Quarry Trust trustee, and the Salford Quarry Trust Escrow agent. The United States and Debtors (and the Debtors' successors, assigns, and the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)) expressly reserve all claims, demands and causes of action either judicial or administrative, past or future, in law or equity, which the United States or the Debtors (or the Debtors' successors, assigns, and the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)) may have against any person, firm, corporation, or other entity not a party to this Second Agreement for any matter arising at or relating in any manner to the sites addressed herein. Nothing in the preceding sentence shall be deemed to nullify the scope of the covenant not to sue (and the reservations thereto) contained in Paragraph 19(b) and 19(c) of this Second Agreement.

21. It is the intent of the parties to this Second Agreement, and the parties agree, that:

(a) Debtors (and the Debtors' successors, assigns, officers, directors, subsidiaries, agents, and employees and the

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reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)) will be entitled to contribution protection with respect to ADS-OU2 and ADS-OU3 to the extent provided under Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for matters addressed by this Second Agreement; and

(b) Debtors (and the Debtors' successors, assigns, officers, directors, subsidiaries, agents, and employees and the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)), the Salford Quarry Trust, the Salford Quarry Trust trustee, and the Salford Quarry Trust Escrow agent will be entitled to contribution protection with respect to the Salford Quarry to the extent provided under Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for matters addressed by this Second Agreement.

VIII. SITES NOT EXPRESSLY SET FORTH IN THE UNITED STATES' PROOF OF CLAIM

22. This Section VIII governs the treatment of properties or sites ("Additional Sites") that were not expressly set forth in the United States' Proof of Claim, with the exception of the twenty-seven sites listed in Paragraph 19(d)(ii) above, which twenty-seven sites are not governed or affected in any manner by this Second Agreement and are not Additional Sites (with the exception of any portion of the site discussed in Paragraph 19(d)(ii)(y) that is owned by National Gypsum Company,

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which portion shall be treated as set forth in Paragraph 19(d)(ii)(y)). "Debtor-Owned Additional Sites" shall refer to those Additional Sites owned by the Debtors, the Debtors' successors, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity) at or at any time after the date of confirmation of the Plan of Reorganization in the above captioned bankruptcy cases. "Other Additional Sites" shall refer to those Additional Sites that are not Debtor-Owned Additional Sites.

23. With respect to the Debtor-Owned Additional Sites, the following claims of or obligations to the United States shall not be discharged under Section 1141 of the Bankruptcy Code by the confirmation of a Plan of Reorganization nor shall such claims or obligations be impaired or affected in any way by the reorganization of the Debtors:

(a) claims for recovery of response costs incurred after the date of confirmation of the Plan of Reorganization in the above captioned bankruptcy cases ("post-confirmation") by the United States at Debtor-Owned Additional Sites or at locations which have been impacted by hazardous substances, hazardous wastes, solid wastes, pollutants or contaminants originating from Debtor-Owned Additional Sites;

(b) actions by the United States seeking to compel the performance of removal action, remedial action, corrective action, closure or any other cleanup action at Debtor-Owned Additional Sites or at locations which have been impacted by

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hazardous substances, hazardous wastes, solid wastes, pollutants or contaminants originating from Debtor-Owned Additional Sites;

(c) claims for damages to natural resources at Debtor-Owned Additional Sites or at locations which have been impacted by hazardous substances, hazardous wastes, solid wastes, pollutants or contaminants originating from Debtor-Owned Additional Sites;

(d) any other claim under CERCLA or RCRA at Debtor-Owned Additional Sites, except for claims for recovery of costs incurred during the time period prior to the date of confirmation of the Plan of Reorganization in the above captioned bankruptcy cases ("pre-confirmation") or recovery of civil penalties for pre-petition violations;

(e) criminal liability.

The United States may pursue enforcement actions or proceedings under applicable law with respect to the foregoing proceedings subparagraphs 23(a) through 23(e) in the manner, and by the administrative or judicial tribunals, in which the United States could have pursued enforcement actions or proceedings if the above captioned bankruptcy proceedings had never been commenced. Furthermore, notwithstanding the foregoing, the United States reserves whatever rights it may have to file an application for administrative expenses with respect to pre-confirmation costs incurred by the United States at Additional Sites.

24. With respect to Other Additional Sites, all liabilities and obligations of the Debtors and the Debtors'

successors and assigns, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity) to the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, or Section 7003 of RCRA, 42 U.S.C. § 6973, arising from pre-October 28, 1990 ("pre-petition") acts, omissions, or conduct of the Debtors or their predecessors shall be discharged under Section 1141 of the Bankruptcy Code, by the confirmation of a Plan of Reorganization, and the United States shall receive no distributions in the above captioned bankruptcy proceedings on such liabilities and obligations at the time of consummation of the Plan of Reorganization. However, such liabilities and obligations shall be treated and liquidated as general unsecured claims on the terms specified herein. If and when the United States undertakes enforcement activities in the ordinary course, the United States may seek a determination of the liability of the Debtors or the Debtors' successors and assigns, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity) or enter into a settlement with regard to any of the Other Additional Sites in the manner, and before the administrative or judicial tribunals, in which the United States' claims would have been resolved or adjudicated as if the above captioned bankruptcy proceedings had never been commenced. However, the United States shall not issue or cause to be issued any unilateral order or seek any injunction against the Debtors

or the Debtors' successors and assigns, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity) under Section 106 of CERCLA or Section 7003 of RCRA, arising from the pre-petition acts, omissions, or conduct of the Debtors or their predecessors with respect to the Other Additional Sites. The above liquidation may occur notwithstanding the terms of the Plan of Reorganization, the order confirming the Plan of Reorganization, or the terms of any order entered to effectuate the discharge received by the Debtors. In any action or proceeding with respect to Other Additional Sites, the Debtors or the Debtors' successors and assigns, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity) reserve all rights and defenses they would have been entitled to assert had the claim been liquidated in the ordinary course and during the course of the above captioned bankruptcy proceedings.

25. If and when any claim is liquidated pursuant to the preceding Paragraph 24 by settlement or judgment to a determined amount (the "Determined Amount"), the Debtor(s) or the Debtor's(s') successors and assigns, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity) with which such settlement is made or against which such judgment is entered will, subject to their right to seek a stay pending appeal, satisfy each such claim within thirty days after the date the

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settlement or judgment is final (the "Settlement/Judgment Date") by providing the United States the "Distribution Amount," which amount, as to each such claim, shall be equal to the Determined Amount multiplied by the percentage recovery actually received (taking into account the market value of the securities received as set forth below) by holders of allowed unsecured claims in the class in which the United States' environmental claim at issue would be classified under the confirmed Plan of Reorganization ("the Relevant Class"). The Debtor or the Debtor's successors and assigns, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity) may provide the Distribution Amount by paying the United States, at the option of the Debtor (or at the option of the Debtor's successors and assigns, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)) (a) the Distribution Amount in cash, (b) distributing securities issued by the Debtors (or the Debtor's successors and assigns, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)) that have a market value on the Settlement/Judgment Date that is equivalent to the Distribution Amount, or (c) a combination of (a) and (b) providing the same value as would have been provided under subparagraph (a) or (b). The percentage recovery actually received by holders of allowed unsecured claims in the Relevant

Class shall be calculated (for the purpose of determining the Distribution Amount) by adding the actual market value of all the securities distributed to the Relevant Class unsecured claimants on all distribution dates (excepting distributions pursuant to Section VIII of this Second Agreement) and dividing the foregoing sum by the sum of all allowed Relevant Class unsecured claims (excepting claims allowed pursuant to Section VIII of this Second Agreement). For purposes of the foregoing calculation, the actual market value of the securities distributed on each distribution date shall be equal to the product of (i) the number of shares of securities distributed on such distribution date to Relevant Class unsecured claimants and (ii) the adjusted market price per share of such security on the distribution date (or, if more than one type of security is distributed on a distribution date to Relevant Class unsecured claimants, shall be equal to the sum of the actual market value of each type of security distributed on such distribution date to Relevant Class unsecured claimants, to be calculated with respect to each type of security distributed on such date by multiplying (i) the number of shares of that type of security distributed on such distribution date to Relevant Class unsecured claimants by (ii) the adjusted market price per share of that type of security on the distribution date). The adjusted market price per share of a security on a distribution date shall be calculated as the average of the daily closing prices of the security on the distribution date and on the nine (9) trading days immediately following the distribution

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date. The closing price for each trading day shall be: (i) if the security is reported over the Consolidated Last Sale Reporting System of the Consolidated Tape Association ("the CLSRS"), the security's last sale price on the primary market for such security as reported on the CLSRS (but, if there was no sale on the primary market on that day, the last sale price on the primary market for such security as reported on the CLSRS on the preceding trading day on which there was a sale on the primary market); (ii) if the security is not reported over the CLSRS and is reported or quoted on the National Association of Securities Dealers Automated Quotations System ("NASDAQ"), the last sale price reported on NASDAQ, or if the security is an issue for which the last sale prices are not reported on NASDAQ, the average of the highest closing bid and the lowest closing offer on such day as reported on NASDAQ (but, if the relevant NASDAQ price or quotation did not exist on such day, then the last sale price or average of highest closing bid and lowest closing offer on the next preceding trading day on which there was such a price or quotation reported on NASDAQ); or (iii) if the security is not reported or quoted on either CLSRS or NASDAQ, the last sale price in the primary market for such security, or, if there is no such last sale price, the average of the most recent bid and offer as reported, in order of preference, in The Wall Street Journal, the National Quotations Bureau, Inc. pink sheets, quotation sheets of registered market makers or, if necessary, dealers' telephone quotations. For purposes of determining the number of shares of

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securities that have the market value of the Distribution Amount on the Settlement/Judgment Date, the market value per share of securities on the Settlement/Judgment Date shall be the closing price of the security on the Settlement/Judgment Date, to be determined as set forth in the immediately preceding sentence. The terms of distribution set forth above may be modified only by an agreement in writing of the parties.

26. All liabilities and obligations of the Debtors (or the Debtors' successors and assigns, or the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)) to the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, and Section 7003 of RCRA, 42 U.S.C. § 6973, arising from post- October 28, 1990 ("post-petition") acts, omissions, or conduct of the Debtors shall not be discharged under Section 1141 of the Bankruptcy Code by the confirmation of a Reorganization Plan nor shall such claims be impaired in any way by this Second Agreement.

27. Notwithstanding any other provision of this Second Agreement, the terms of Paragraphs 19, 24, and 25 of this Second Agreement shall apply to, be binding on, and inure to the benefit of any successor, assign, or reorganized company of the Debtors to the extent that and only to the extent that the alleged liability of the successor, assign, or reorganized company for an Additional Site is based solely on its status as and in its

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capacity of a successor, assign, or reorganized company of the Debtors.

IX. GENERAL TERMS

28. All general unsecured and administrative expense claims allowed under or pursuant to the terms of this Second Agreement, including without limitation any such claims as may eventually be allowed pursuant to Paragraph 24 and 25 for Additional Sites, will receive the same treatment under the Plan of Reorganization, without discrimination, as other holders of general unsecured claims with all attendant rights provided by the Bankruptcy Code and other applicable law. In no event shall the general unsecured claims or administrative claims to be allowed pursuant to the Second Agreement be subordinated pursuant to any provision of the Bankruptcy Code or other applicable law that authorizes or provides for subordination of allowed claims, including without limitation Sections 105, 510 and 726(a)(4) of the Bankruptcy Code.

29.(a) Notwithstanding any other provision of this Second Agreement, there shall be no restrictions (except as otherwise required by applicable law) on the ability and right of:

(i) the United States on behalf of EPA or DOI to transfer or sell all or a portion of any securities distributed to it under this Second Agreement;

(ii) the United States on behalf of EPA or DOI to sell its right to all or a portion of any of its allowed general

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unsecured claims under the Plan of Reorganization under this Second Agreement to one or more third parties;

(iii) the Salford Quarry Trust Escrow to transfer or sell all or a portion of any securities distributed to it pursuant to this Second Agreement; or

(iv) the Salford Quarry Trust Escrow to sell its right to all or a portion of any of its allowed general unsecured claims under the Plan of Reorganization under this Second Agreement to one or more third parties.

(b) In the event that the United States or the Salford Quarry Trust Escrow, pursuant to this Paragraph 29(a)(ii) or 29(a)(iv), or a subsequent seller or transferor, sells or transfers its claim(s), distributions by the Debtors on the claim will be made in accordance with such written instructions as are provided by the buyer/transferee. The seller or transferor of a claim shall give written notice of any sale or transfer to the Debtors within three business days of any sale or transfer.

30. The United States' Proof of Claim shall hereby be deemed amended to include all matters addressed in this Second Agreement but not already included therein. The Proof of Claim, as amended, shall be deemed satisfied in accordance with the terms of this Second Agreement.

31. The Bankruptcy Court Orders described above entered on May 5, 1992 (docket number 3383); on July 28, 1992 (docket number 3888); on July 30, 1992 (docket number 3919); on July 30, 1992 (docket number 3920); on July 30, 1992 (docket

number 3921); and on July 30, 1992 (docket number 3922) shall be deemed vacated and the United States' notices of appeal with respect to these Orders shall be deemed withdrawn. This Paragraph 31 shall take effect at such time after the Effective Date that all appeals from the approval Order referenced in Section II of this Second Agreement have been finally resolved (including any appeals from any orders pursuant to such appeals) and only if such appeals result in final affirmance of such approval Order.

32. Nothing in this Settlement Agreement shall be deemed to limit the authority of the United States to take response action under Section 104 of CERCLA, 42 U.S.C. § 9604, Section 113 of the Clean Air Act, 42 U.S.C. § 7413, or any other applicable law or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the United States pursuant to that authority. Nothing in this Settlement Agreement shall be deemed to limit the information gathering authority of the United States under Sections 104 and 122 of CERCLA, 42 U.S.C. §§ 9604 and 9622, Section 114 of the Clean Air Act, 42 U.S.C. § 7414, or any other applicable law or regulation, or to excuse the Debtors from any disclosure or notification requirements imposed by CERCLA, RCRA, or any other applicable law or regulation.

X. WAIVER OF CLAIMS

33. In consideration of the entry of this Second Agreement, the Debtors (and the Debtors' successors, assigns,

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officers, directors, subsidiaries, agents, and employees and the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)), the Salford Quarry Trust, the Salford Quarry Trust trustee, and the Salford Quarry Trust Escrow agent waive any claims or set-off against the United States or the Hazardous Substances Superfund established under 26 U.S.C. § 9507, including any claims or set-off pursuant to Section 111 and 112 of CERCLA, 42 U.S.C. § 9611 and § 9612, with respect to ADS OU-2, ADS OU-3, the Salford Quarry, and legal fees and expenses incurred by the United States in connection with litigation of its claims against the Debtors.

34. In further consideration of the entry of this Second Agreement, Debtors (and the Debtors' successors, assigns, officers, directors, subsidiaries, agents, and employees and the reorganized companies as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)) finally and completely waive, release and covenant not to sue the United States on any claim, counterclaim, or cause of action with respect to ADS OU-2, ADS OU-3, the Salford Quarry, and legal fees and expenses incurred by the United States in connection with litigation of its claims against the Debtors. This Paragraph 34 shall be null and void in the event that the United States files suit against the Debtors (or the Debtors' successors, assigns, officers, directors, subsidiaries, agents, and employees and the reorganized companies

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as defined in the Plan of Reorganization (including "New NGC", "Reorganized NGC", and any other reorganized entity)) in contravention of Paragraph 19 of this Second Agreement.

XI. RETENTION OF JURISDICTION

35. The Bankruptcy Court shall retain jurisdiction of this matter for the purpose of enforcing the terms of this Second Agreement.

XII. PUBLIC NOTICE AND COMMENT

36. This Second Agreement shall be subject to publication in the Federal Register and an opportunity for public comment. Final approval of the United States is contingent upon review of any public comments received.

FOR THE UNITED STATES OF AMERICA

Vicki O'Meara
VICKI A. O'MEARA
Acting Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

11/29/92
Date

Philip E. Karmel
JOEL M. GROSS, Deputy Chief
ANNA L. WOLGAST, Senior Attorney
PHILIP E. KARMEL, Trial Attorney
SUZANNE LACAMPAGNE, Trial Attorney
JEFFERY K. GORDON, Trial Attorney
PETER E. JAFFE, Trial Attorney
Environmental Enforcement Section
U.S. Department of Justice

11/24/92
Date

ATTACHMENT A TO THE SECOND SETTLEMENT AGREEMENT

THE SALFORD QUARRY CUSTODIAL TRUST

National Gypsum Company, which has heretofore owned the Salford Quarry, acting pursuant to the terms of the Settlement Agreement as hereinafter defined, hereby transfers to Rona Pietrzak (the "Trustee") the Salford Quarry, which the Trustee agrees to hold along with all other property transferred to the said Trustee pursuant to and in satisfaction of the terms of the Settlement Agreement, IN TRUST, subject to the following provisions.

ARTICLE I

DEFINITIONS

1.01 Capitalized Terms. For all purposes of this Trust, the following terms shall have the meanings set forth below:

"Assistant Attorney General" shall mean the then current Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice.

"Code" shall mean the Internal Revenue Code of 1986, as amended, or any future codification of the federal revenue laws.

"Court" shall mean a federal court of competent jurisdiction (or if no federal court has jurisdiction over the matter, a state or other court of competent jurisdiction).

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"EPA" shall mean the United States Environmental Protection Agency.

"Escrow Agent" shall mean the _____ Bank or any successor in interest under the Escrow Side Letter (as hereinafter defined).

"Escrow Side Letter" shall mean the side letter dated _____, 1992, substantially in the form of Attachment B to the Settlement Agreement, setting forth the terms of the Escrow Agent's holding, investment and disbursement of the Trust Response Fund and Trust Maintenance Reserve Fund (each as hereinafter defined).

"National Gypsum" shall mean, for purposes of this Trust Agreement only, National Gypsum Company and its divisions, subsidiaries, affiliates, and successors (including any reorganized company under the Plan of Reorganization), and their respective directors, officers, employees, agents, and attorneys.

"Owner" shall mean the Trustee in his or her capacity as Trustee.

"Regional Administrator" shall mean the then current Regional Administrator for EPA Region III or his or her delegate.

"Registry" shall mean the Montgomery County (Pennsylvania) Recorder of Deeds; provided that if this Trust is recorded or filed for registration in any other public office within or without the Commonwealth of Pennsylvania, any person dealing with portions or all of the Trust Estate as to which documents or instruments are recorded or filed for registration

in such other public office, in order to constitute notice to persons not parties thereto, may rely on the state of the record with respect to this Trust in such other public office, and with respect to such portions or all of the Trust Estate the term "Registry" as used herein shall mean such other public office.

"Salford Quarry" shall mean all that certain tract of land in Lower Salford Township, Montgomery County, Pennsylvania, more fully described in Exhibit A, attached hereto and made a part hereof.

"Settlement Agreement" shall mean the second settlement agreement among EPA and the United States Department of the Interior, National Gypsum and Aancor Holdings, Inc. submitted to the court for lodging on November 25, 1992, in In Re National Gypsum Company, and In re Aancor Holdings, Inc., Case Numbers 390-37213-SAF-11 and 390-37214-SAF-11, (U.S. Bankruptcy Court, N.D. Texas, Dallas Division).

"Start-Up Loan" shall mean any loan or loans up to \$100,000 made to the Trustee by National Gypsum to assist the Trust in beginning its operations prior to the transfer of assets to the Trust and the conversion of those assets into a useful form.

"Trust" shall mean the Salford Quarry Custodial Trust.

"Trust Agreement" or "Agreement" shall mean this agreement establishing the Salford Quarry Custodial Trust.

"Trust Escrow Account" or "Trust Escrow Accounts" shall mean all funds deposited with the Escrow Agent pursuant to the

terms of this Agreement and the Escrow Side Letter, including sub-accounts, in particular the Trust Maintenance Reserve Fund Account and the Trust Response Fund Account as hereinafter defined.

"Trust Estate" shall mean all right, title and interest of the Trustee in and to any and all real or personal property held by the Trustee pursuant to this Trust, including without limitation the Salford Quarry and any and all notes, securities, cash, funds and/or other liquid assets transferred to the Trustee by National Gypsum pursuant to the terms of the Settlement Agreement, or by any other person or entity, including without limitation any income or profits derived therefrom.

"Trust Maintenance Income" shall mean the income generated by the Trust Maintenance Reserve Fund.

"Trust Maintenance Reserve Fund" shall mean the portion of the assets deposited by National Gypsum under this Agreement, and any earnings thereon, held in the Trust Maintenance Reserve Fund Account pending disbursement as provided herein.

"Trust Maintenance Reserve Fund Account" shall mean the account established pursuant to this Agreement for the purpose of holding, investing and making disbursements of the Trust Maintenance Reserve Fund.

"Trust Real Property" shall mean the Salford Quarry, but shall not include the proceeds of any sale or other disposition of such real property or any other real or personal property held by the Trustee.

"Trust Response Fund" shall mean the portion of the assets deposited by National Gypsum under this Agreement, and any earnings thereon, held in the Trust Response Fund Account pending disbursement as provided for herein.

"Trust Response Fund Account" shall mean the account established pursuant to this Agreement for the purpose of holding, investing and making disbursements of the Trust Response Fund.

1.02 Incorporation of Certain Definitions. Capitalized terms used herein without definition shall have the meanings ascribed to them in the Settlement Agreement.

ARTICLE II

NAME AND PURPOSE OF TRUST

2.01 Name. This Trust shall be known as "The Salford Quarry Custodial Trust".

2.02 Trust Purposes. (a) The purpose of this Trust is to receive, hold and maintain custody of the Trust Estate including the Trust Real Property in accordance with the terms of the Settlement Agreement and this Trust Agreement.

(b) The Trust's receipt, holding and management of the Trust Real Property shall be exclusively for the benefit and protection of the United States on behalf of the EPA, which shall be the sole beneficiary of this Trust.

(c) This Trust is created and shall be operated exclusively to carry out charitable and scientific purposes in

support of the United States on behalf of the EPA. No part of this Trust and/or its net earnings shall inure to the benefit of any private individual but the Trust shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the charitable and scientific purposes described in this Article. No part of the direct or indirect activities of this Trust shall consist of carrying on propaganda, or otherwise attempting to influence legislation, or of participating in, or intervening in (including, without limitation, the publication or distribution of statements) any political campaign on behalf of (or in opposition to) any candidate for public office.

(d) Neither this Trust nor the Trustee shall be liable except in accordance with the terms of this Trust Agreement and the Settlement Agreement for any judgment, cause of action or claim for relief arising out of conditions at or relating to the Trust Real Property caused by any action or inaction of any former owner, tenant or licensee of the Trust Real Property.

(e) Nothing in this Trust Agreement shall derogate from EPA's authority to have access to and take response action with regard to the Salford Quarry as specified in the Settlement Agreement and the Escrow Side Letter.

ARTICLE III

DUTIES OF THE TRUSTEE

3.01 Trust Escrow Accounts. The Trustee shall establish and administer the Trust Escrow Accounts for the purposes set forth in and as required by this Agreement.

3.02 Duties of the Trustee. The Trustee shall:

- (a) receive and hold title to the Trust Real Property;
- (b) to the extent required of the Owner as an ongoing regulatory obligation under applicable law, perform such maintenance, inspections, monitoring and security measures at the Salford Quarry as are necessary or appropriate, particularly including, but without limitation:
 - (i) periodically provide for mowing of the area of the Salford Quarry cap and maintenance of any grass and any other plants present on the surface of the Salford Quarry cap at a height of not more than one foot from the surface of the cap;
 - (ii) regularly inspect the capped area of the Salford Quarry and provide for repair of any damage to the cap;
 - (iii) provide for sampling of the two existing monitoring wells at the Salford Quarry including quarterly sampling for COD, TOC, pH, Total Dissolved Solids, SO_4^{-2} , Cl^- , Specific Conductance, lead, Copper, Boron, Antimony, Zinc,

Iron and alkalinity, and annual sampling for trichloroethylene;

- (c) to the extent deemed prudent by the Trustee, employ reasonable measures to control access to and prevent unauthorized entry upon, use of, or damage to the Trust Real Property;
- (d) to the extent deemed prudent by the Trustee, insure the Trust Real Property against loss due to casualty or third party liability;
- (e) receive all remaining assets of the Trust Estate distributed by National Gypsum pursuant to Section V of the Settlement Agreement, which shall include the proceeds of any Start-up Loan made pursuant to Paragraph 15 of the Settlement Agreement and Section 4.04 of this Agreement;
- (f) direct the Escrow Agent, with agreement of the EPA where applicable, to make distributions of monies in the Trust Escrow Accounts as permitted under the Settlement Agreement and this Agreement;
- (g) comply with all relevant provisions of the Settlement Agreement; and
- (h) review any requests for reimbursement of costs made by EPA to ensure that payment of such costs is consistent with the Settlement Agreement.

3.03 Application for Tax Abatements. The Trustee shall make all necessary applications for abatements from property

taxation and provide such additional information to the applicable taxing authorities as is necessary to insure, to the extent feasible, that such entities do assess and continue to assess the Trust Real Property at zero or at such other value or in such other manner or form that no real estate tax liability is imposed on the Trust Real Property.

ARTICLE IV

TRUSTEE'S POWERS

The Trustee shall have, in addition to those powers conferred by law or specified elsewhere herein and the general powers of the office, and without leave of court, the following powers, which powers shall be exercised in a fiduciary capacity, in the best interest of this Trust and in the sole discretion of the Trustee unless otherwise specified:

4.01 Payment of Expenses of Administration. To incur and cause to be paid any and all charges, taxes and expenses upon or connected with this Trust in the discharge of its fiduciary obligations.

4.02 Extension of Obligations and Negotiation of Claims. To renew or extend the time of payment of any obligations, secured or unsecured, payable to or by this Trust, for as long a period or periods of time and on such terms as the Trustee shall determine; and to adjust, settle, compromise, abandon, contest and arbitrate claims or demands in favor of or against this Trust, including claims for taxes, upon such terms

as it deems advisable, provided that in no event shall any portion of the Trust Estate be used to satisfy judgments against the Trust resulting from conditions at or relating to the Trust Real Property which stem from the conduct of any former owner, tenant or licensee of the Trust Real Property.

4.03 Authority to Represent Trust Before Agencies. To represent this Trust with regard to any matter concerning this Trust or its purpose before any federal, state or local agency or authority which has authority or attempts to exercise authority over any matter which concerns this Trust.

4.04 Start-Up Loan. The Trustee shall have the power to borrow up to \$100,000 at an interest rate of not more than five percent per annum (but in any event at a rate not in excess of the applicable federal rate then in effect) from National Gypsum in order to fund any start-up expenses of the Trust, provided that the proceeds of any such Start-Up Loan shall be deposited in the Trust Maintenance Reserve Fund Account. The Trust shall repay the Start-Up Loan and accrued interest to National Gypsum or any successor in interest of National Gypsum under the Plan of Reorganization as follows:

- (a) to the extent that the proceeds of the Start-Up Loan have been disbursed, the repayment shall be from Trust Maintenance Income; and
- (b) to the extent that the proceeds of the Start-Up Loan have not been disbursed prior to the time that the Trust Maintenance Reserve Fund Account

assets have been converted to useful form and begun to generate Trust Maintenance Income, by promptly returning those undisbursed loan proceeds along with any accrued interest.

The proceeds of the Start-Up Loan shall be deemed Trust Maintenance Income for the purposes of this Agreement.

4.05 Additional Powers. The Trustee shall have the following powers which may be exercised without court approval:

- (a) To execute and deliver all appropriate instruments;
- (b) To record in the appropriate Registry any instrument, including any certificate acknowledged by the Trustee as to any fact concerning the Trust Real Property; and any person without actual knowledge to the contrary may rely conclusively on the genuineness of any such instrument and on the correctness of any such certificate.

4.06 Powers of Trustee to Continue. The Trustee may exercise any of such powers in perpetuity or until such time as the Trust is terminated in accordance with Section 11.03 of this Trust Agreement.

4.07 Persons Dealing with Trust. No person dealing with this Trust shall be required to see to the application of any money or property delivered to the Trustee, or to see that the terms and conditions of this Trust have been complied with. Every instrument executed or action taken by the person or entity

appearing to be the Trustee shall be conclusive evidence that this Trust was in full force and effect when the instrument was delivered or the action was taken; that such person or entity was the Trustee; and that such instrument or action was valid and legally binding.

4.08 Reliance of Purchasers and Others. Every agreement, deed, or other instrument or document executed or action taken by the Trustee or any successor or additional Trustee, shall be conclusive evidence in favor of every person relying thereon or claiming thereunder that at the time of the delivery thereof or of the taking of such action this Trust was in full force and effect and that such instrument or document or action is valid, binding and legally enforceable. Any person dealing with the Trust Estate or the Trustee may always rely without inquiry on a certificate signed as aforesaid as to who is the Trustee or Trustees or the beneficiaries hereunder, or as to the authority of the Trustee to act, or as to the existence or nonexistence of any fact or facts which constitute conditions precedent to acts by the Trustee or which are in any other manner germane to the affairs of the Trust.

ARTICLE V

TRUST ESCROW ACCOUNTS

5.01 Establishment of Accounts. The Trustee shall establish with the Escrow Agent such accounts as are described in this Agreement and, pursuant to direction of the EPA, or where

inapplicable, pursuant to reliance on reasonable sources, shall direct the Escrow Agent to distribute monies from these accounts pursuant to the terms of the Settlement Agreement and this Trust Agreement.

5.02 Trust Maintenance Reserve Fund Account. Fifty percent of the payments made by National Gypsum to the Trustee pursuant to Section V of the Settlement Agreement shall constitute the "Trust Maintenance Reserve Fund Account," which shall be established by the Trustee and shall be used as provided herein.

5.03 Trust Maintenance Income. Until expended as provided in Section 5.04 herein, the Trust Maintenance Income shall be held in the Trust Maintenance Reserve Fund Account.

5.04 Disbursements from the Trust Maintenance Reserve Fund Account. The Trustee shall direct the Escrow Agent to disburse funds from the Trust Maintenance Reserve Fund Account from the Trust Maintenance Income only and not from principal unless disbursement of the principal is specifically approved by the Assistant Attorney General, for the following purposes:

- (a) payment on a monthly basis of compensation to the Trustee as provided in Section 9.04 of this Trust Agreement;
- (b) to make any tax payment required by law;
- (c) administration of the Trust, including without limitation those activities set forth in Sections 3.02(a)-(f), 3.02(h), 3.03, 4.01, 4.03, 4.04, 7.01,

8.02, 8.03, and 10.03 of this Agreement and Paragraph 15 of the Settlement Agreement;

- (d) payment of the administrative expenses of the Escrow Agent, including payment of reasonable management and accounting fees;
- (e) the purchase of comprehensive general liability insurance or other insurance naming the Trust as the sole beneficiary and of insurance covering the Trustee in his or her personal capacity for liability arising with respect to the Trust other than for gross negligence or breach of fiduciary duty on the part of the Trustee;
- (f) repaying the Start-Up Loan, including interest at a rate of no more than five percent per annum, to National Gypsum;
- (g) payment of attorneys fees or other litigation expenses and costs of the Trustee in the event that the Trustee is sued in his or her personal capacity with regard to the Salford Quarry or this Trust, but only to the extent that an existing insurance policy does not otherwise provide for payment or reimbursement of such fees, expenses or costs; and
- (h) for any other purpose requested by the Trustee and expressly approved in writing by the Regional Administrator.

5.05 Procedure for Disbursements From the Trust Maintenance Reserve Fund Account. When the Trustee has cause to expend funds from the Trust Maintenance Reserve Fund Account in accordance with this Section (except as provided in Section 5.06), the Trustee shall deliver to the Escrow Agent and the Regional Administrator a written request for disbursement, together with sufficient documentation to establish the regularity of the request. The request shall direct the Escrow Agent to disburse said funds in accordance with the request fifteen days after it receives the request from the Trustee, provided that Regional Administrator has not furnished the Escrow Agent with a written objection within the fifteen-day time period. In the event of objection, the Escrow Agent shall be directed to withhold payment until the Regional Administrator waives his or her objection or the Court orders the Escrow Agent to make payment.

5.06 Payment of Trustee's Salary. The Trustee may direct the Escrow Agent to disburse on a monthly basis one-twelfth of the Trustee's annual compensation as established pursuant to Section 9.04 of this Agreement, without monthly notice to the Regional Administrator, provided that in the event that a successor Trustee is appointed pursuant to Article X of this Agreement, the Escrow Agent shall not begin making payments under this Section to the successor Trustee until receipt of written authorization from the Assistant Attorney General or his or her duly authorized delegate.

5.07 Trust Response Fund Account. Fifty percent of the payments made by National Gypsum to the Trustee pursuant to Section V of the Settlement Agreement shall constitute the "Trust Response Fund Account," which shall be established by the Trustee and shall be used as provided herein.

5.08 Trust Response Fund Account Income. Until expended as provided in Section 5.09 herein, the income generated by the Trust Response Fund shall be held in the Trust Response Fund Account.

5.09 Disbursements of the Trust Response Fund Account. Except as set forth in Section 5.10 below, the assets constituting the Trust Response Fund Account may be used only for the purpose of reimbursing the United States pursuant to Paragraph 14 of the Settlement Agreement. When EPA has cause to draw upon the Trust Response Fund Account in accordance with Paragraph 14 of the Settlement Agreement, the Regional Administrator shall deliver to the Escrow Agent and the Trustee a written request for disbursement, together with sufficient documentation to establish the regularity of the request. The Trustee shall give the Escrow Agent a standing order to disburse Trust Response Fund assets in accordance with the request ten days after it receives the request from Regional Administrator, provided that the Trustee has not objected in writing to the Escrow Agent with a copy to the Regional Administrator within the ten day time period. In the event of objection, the Escrow Agent shall withhold payment until the Trustee waives its objection or

a Court orders payment. The Escrow Agent shall be directed to make disbursements pursuant to this Section by Electronic Funds Transfer (EFT or wire transfer) to the U.S. Department of Justice lockbox bank and referencing: CERCLA Number 03-Y3; DOJ Case Number 90-11-2-689; and the U.S. Attorney's Office File Number 91-04-098 or to such other location as the Regional Administrator designates.

5.10 Merger of Trust Escrow Accounts. Fifteen years after the effective date of this Agreement, the Trust Escrow Accounts shall be merged and any assets remaining in the Trust Response Fund shall be incorporated into and treated as part of the Trust Maintenance Reserve Fund and shall be placed in the Trust Maintenance Reserve Fund Account.

ARTICLE VI

HOLDING AND INVESTMENT OF TRUST ESCROW ACCOUNTS

6.01 Investment of Trust Escrow Account Assets. The Trustee shall direct the Escrow Agent to invest and reinvest the assets of the Trust Escrow Accounts (including any undistributed income from either) in accordance with the instructions issued by the Trustee and approved by the Regional Administrator pursuant to this Section. No more than twice yearly, the Trustee shall forward to the Regional Administrator proposed instructions, in writing, specifying the percentages of each of the Trust Escrow Accounts that are to be invested in any of the following: United States direct obligations, obligations guaranteed by agencies of

the United States government, bank certificates of deposit to the extent such are insured by the federal government. In all cases, however, the total investments shall be sufficiently liquid to enable the Trustee to fulfill the purposes of the Trust and to satisfy obligations as they become due. Within ten days of receipt of the proposed instructions, the then Regional Administrator shall either notify the Trustee of any objection or shall sign the proposed instructions and forward them to the Escrow Agent for execution. In the event that the Regional Administrator fails to respond to the request and the proposed instructions, such instructions shall be deemed to have been submitted without objection by the Regional Administrator, and the Trustee may forward them to the Escrow Agent for execution. In the event of an objection, the assets of the Trust Escrow Accounts shall remain invested as they were prior to the issuance of the proposed instructions until such time as the Trustee and the Regional Administrator have agreed upon new instructions.

The Trustee shall have the power to hold and retain (by transfer to the Escrow Agent) all or any part of the assets paid to the Trustee by National Gypsum, in the form in which they may be at the time of receipt, for a reasonable time after receipt thereof, notwithstanding the fact that the same may not be authorized by the laws of any state or rules of any court for the investment of such funds by Trustees and without any liability for any loss of principal or income by reason of such retention.

6.02 Preservation of Principal. Notwithstanding any other provision in this Agreement, until disbursement the assets of the Trust Escrow Accounts shall at all times be held, managed and invested in a manner designed to preserve the principal of the Trust Escrow Accounts and, consistent with preservation of the principal of these funds, to maximize the principal and income derived therefrom.

6.03 Provisions of Escrow Side Letter. The Escrow Side Letter shall include:

(a) a requirement that the Escrow Agent credit the Trust Escrow Accounts with all receipts of interest, dividends and other income received on the account assets, and the proceeds of the sale of any such assets;

(b) a requirement that the Escrow Agent acknowledge the lien of the United States in all Trust Escrow Account assets pursuant to Paragraph 15(b) of the Settlement Agreement and to execute and file such documents as may be necessary to publish any required notice thereof; and

(c) a commitment that the Escrow Agent shall, immediately upon receipt of a notice from the Assistant Attorney General in the form set forth in Exhibit B hereto, transfer the assets designated therein, with the exception (where applicable) of sufficient assets to establish the Residual Escrow Fund pursuant to Section 9.01 of the Escrow Side Letter, to the United States as directed therein.

ARTICLE VII

RETENTION OF PROFESSIONAL AND OTHER SERVICES

7.01 Retention and Removal of Other Professional and Employee Services. To the extent reasonably necessary to assist it in carrying out its duties under this Trust, the Trustee may employ attorneys, custodians, engineers, clerks, and other necessary agents or employees (including any firm or entity in which it may have an interest); lease from others, furnish, operate and maintain office space; and may direct the Escrow Agent to make such payments therefor out of the Trust Maintenance Reserve Fund Account as are reasonable in view of the scope and purposes of this Trust and to the extent that the Trust Maintenance Income will permit, in accordance with the provisions hereof. The reasonable costs of legal services incurred by the Trustee prior to the Effective Date of the Settlement Agreement and this Trust Agreement shall be deemed reasonably necessary to assist the Trustee in carrying out his or her duties under this Trust.

ARTICLE VIII

REPORT OF ACTIVITIES

8.01 Annual Report. By each March 31, the Trustee shall render a written report to the Regional Administrator of his or her activities for the prior year ended December 31. The report shall include a detailed itemization of all expenses paid in the prior year.

8.02 Copies of Reports. The Trustee shall provide copies of the annual report to any person or entity who requests it in writing. The Trustee shall be entitled to recover from any such persons or entities (other than EPA, the Commonwealth of Pennsylvania or National Gypsum or its successors or assigns) the cost of providing copies of such reports, and the Trustee shall have no obligation to deliver such copies until such person or entity has reimbursed the Trustee for such costs.

8.03 Report by Escrow Agent. The Trustee shall direct the Escrow Agent to render a written report by each March 31 of activities for the prior year ended December 31. Each report shall be rendered to the Trustee, who shall provide copies to those who request them in writing.

8.04 Right to Compel Accounting. The Assistant Attorney General, in his or her sole discretion, shall have the power to compel an accounting from the Trustee for the performance of the Trust.

ARTICLE IX

CONDITIONS OF TRUSTEE'S OBLIGATIONS

The Trustee accepts the Trust imposed upon him or her but only upon and subject to the following express terms and conditions:

9.01 Limitation of Liability. The Trustee shall not be personally liable pursuant to this Trust Agreement except for

gross negligence or willful acts or omissions in relation to the Trustee's duties hereunder.

9.02 Reliance on Documentation. The Trustee shall be protected in acting in accordance with the provisions of this Trust upon any notice, requisition, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by the Trustee to be genuine and to have been signed or sent by the proper person or persons.

9.03 Right to Demand Documentation. Notwithstanding anything else in this Trust, in the administration of the Trust, the Trustee shall have the right to demand before requesting the disbursement of any cash by the Escrow Agent or in respect of any action whatsoever within the purview of this Trust, any showings, certificates, opinions, appraisals, or other information, or action or evidence thereof, in addition to that required by the terms hereof which the Trustee reasonably believes to be necessary or desirable.

9.04 Trustee's Compensation. The Trustee shall be compensated for his or her services hereunder in accordance with Exhibit C attached hereto.

9.05 Limitation on Financial Liability. No provision of this Trust shall require the Trustee to expend or risk his or her own individual funds or otherwise incur any financial liability in the performance of any of the duties of the Trustee hereunder, or in the exercise of any of the Trustee's rights or powers, nor to take any action pursuant to this Trust, which in

the reasonable judgment of the Trustee may conflict with any rule of law or with the terms of this Trust or with the terms of the Settlement Agreement.

ARTICLE X

SUCCESSOR TRUSTEES

10.01 Resignation of Trustee. Any Trustee may resign by giving not less than sixty days written notice to the Assistant Attorney General, the Regional Administrator, and the Escrow Agent, and such resignation shall take effect upon the day specified in such notice, unless a successor Trustee shall have been sooner appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of a successor Trustee. If any individual Trustee becomes mentally or physically unable to serve, a certificate so stating from such Trustee's then attending physician submitted to the Assistant Attorney General and the Regional Administrator shall constitute such Trustee's resignation. If any Trustee shall be dissolved or in the course of dissolution or liquidation, or otherwise unable to continue to act as Trustee, as finally determined by the Attorney General of the Commonwealth of Pennsylvania, a certificate so stating from the Attorney General shall constitute such Trustee's resignation. The Trustee's resignation shall be recorded with the Registry immediately prior to the recording of the successor Trustee's

acceptance or upon the effective date of resignation, whichever is earlier.

10.02 Appointment of Successor Trustee. If the Trustee or any successor Trustee ceases to serve as Trustee, a successor Trustee may be appointed by the Assistant Attorney General by an instrument in writing, signed by the Assistant Attorney General, and delivered to the successor Trustee, with a copy to the Escrow Agent. In the event that no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article within sixty days after a vacancy shall have occurred, any interested person and/or any retiring Trustee may apply to the Court for the appointment of a successor Trustee, and the Court may thereupon, after such notice, if any, as it shall deem proper, prescribe or appoint a successor Trustee. Each successor Trustee shall qualify upon written acceptance attached hereto and recorded with the Registry and thereafter shall have the same powers, immunities and discretions as the original Trustee.

10.03 Transfer to Successor Trustee. Upon any successor Trustee's qualification, as provided in 10.02, such successor Trustee, without any further act, deed, or conveyance, shall become fully vested with all the estates, rights, powers, trusts, duties and other obligations hereunder of its predecessor; but such predecessor shall nevertheless, upon written request of the successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the

estates, rights, powers, and trusts of such predecessor; and every predecessor Trustee shall deliver all property of any kind held in trust by it to its successor; provided, however, that before any such delivery is required or made, all reasonable, customary and legally accrued fees, advances and expenses of any such predecessor Trustee shall be paid in full by the Escrow Agent.

10.04 Merger or Consolidation of Trustee. Any corporation or association into which the Trustee or any successor Trustee may be merged or converted, or with which the Trustee or any successor Trustee may be consolidated, or any corporation or association resulting from any merger, conversion, or consolidation to which the Trustee or any successor Trustee shall be a party, shall be a successor Trustee under this Agreement without the execution or filing of any paper or any other act on the part of any of the parties hereto, notwithstanding anything to the contrary herein.

10.05 Performance of Trustee's Duties During Vacancy. If for any reason the Trustee's position should become vacant, the duties of the Trustee hereunder shall be carried out by the Regional Administrator pending the appointment of a successor Trustee or the termination of the Trust, but the Regional Administrator shall not during this period be deemed to be the Trustee.

ARTICLE XI

**DISTRIBUTION OF TRUST PROPERTY AND
TERMINATION OF TRUST**

11.01 Transfer of the Trust Real Property. The Trustee may, at any time and at its discretion, transfer exclusively for public purposes all or any portion of the Trust Real Property to Lower Salford Township; Montgomery County, Pennsylvania; the Commonwealth of Pennsylvania; the United States of America or any other appropriate federal or state or local governmental unit; provided that the transferee agrees in writing to accept the transfer. The Trustee shall notify the Assistant Attorney General, the Regional Administrator and the Escrow Agent of any transfer made pursuant to this Section.

11.02 Transfer to the United States Nominee. So long as the Trustee has not transferred the Trust Real Property pursuant to Section 11.01 above, the United States may at any time require the Trustee to transfer the Trust Real Property exclusively for public purposes to any nominee of the United States of America (identified in a notice to the Trustee in the form set out in Exhibit D hereto executed and delivered by the Assistant Attorney General to the Trustee), provided, however, that such nominee is an organization described in Section 170(b)(1)(A) of the Code or the Assistant Attorney General expressly approves the transfer. Should this Trust not have qualified as an entity subject to § 501(c)(3) of the Code within two years of the Effective Date, the proviso in the foregoing

sentence shall not apply. The Trustee shall notify the Escrow Agent of any transfer made pursuant to this Section.

11.03 Termination of Trust. This Trust shall terminate under either of the following conditions:

(a) If and when all of the Trust Real Property has been transferred exclusively for public purposes pursuant to Section 11.01 above and the Trustee has complied with all of the relevant provisions of the Settlement Agreement, and subject to the approval of the Assistant Attorney General (which approval shall not be unreasonably withheld), this Trust and the Trust Escrow shall terminate and the balance of the Trust Escrow Accounts, including the Trust Maintenance Reserve Fund (after deducting sufficient assets therefrom to establish the Residual Escrow Fund pursuant to section 9.01 of the Escrow Side Letter), shall be distributed to the U.S. Department of Justice lockbox bank and referencing: CERCLA Number 03-Y3; DOJ Case Number 90-11-2-689; and the U.S. Attorney's Office File Number 91-04-098 or to such other location as the Assistant Attorney General designates; or

(b) In the event that the Trust Real Property is transferred exclusively for public purposes to a nominee of the United States pursuant to Section 11.02, this Trust and the Trust Escrow shall terminate immediately and the balance of the Trust Estate (including the Trust Maintenance Reserve Fund after deducting sufficient assets therefrom to establish the Residual Escrow Fund pursuant to section 9.01 of the Escrow Side Letter),

after payment of all necessary and appropriate expenses of the Trustee and the Escrow Agent, shall be distributed exclusively for public purposes to the United States or to any other person designated by the Assistant Attorney General, which person may, but need not, be the nominee who receives the Trust Real Property provided, however, that such designee is an organization described in Section 170(b)(1)(A) of the Code.

11.04 Qualification of Distribution and Termination. The provisions of this Article XI shall be construed and exercised so as not to jeopardize the status of this Trust as an entity exempt from taxation under Section 501(c)(3) of the Code.

ARTICLE XII

LIABILITY TO THE TRUSTEE

12.01 No Liability. Notwithstanding anything else appearing herein, neither the United States nor National Gypsum shall be liable to the Trust, the Trustee, or any person claiming to be a beneficiary of this Trust, for any damages or other payments whatsoever arising out of matters related to the Trust or the Trust Estate (including without limitation the Trust Real Property), and the Trustee shall not have the power to sue the United States or National Gypsum in any forum except for the purpose of enforcing the terms of this Trust Agreement or the Settlement Agreement.

ARTICLE XIII

MISCELLANEOUS

13.01 Particular Words. Any word contained in the text of this Trust shall be read as a singular or plural and a masculine, feminine or neuter as may be applicable or permissible in the particular context. Unless otherwise specifically stated the word "person" shall be taken to mean and include an individual, partnership, association, trust, company or corporation.

13.02 Severability of Provisions. If any provision of this Trust or its application to any person or entity or in any circumstances shall be held to be invalid and unenforceable, the application of such provision to persons or entities and in circumstances other than those as to which it is invalid or unenforceable, and the other provisions of this Trust shall not be affected by such invalidity or unenforceability.

13.03 Governing Jurisdiction. This Trust shall be enforceable in a federal court of competent jurisdiction (or if no federal court has jurisdiction over the matter, a state or other court of competent jurisdiction). The validity, interpretation and performance of this Trust shall be governed by the laws of the Commonwealth of Pennsylvania, subject to the provisions of the Settlement Agreement.

13.04 Tax-Exempt Status. Notwithstanding any other provision of this Trust, it is intended that this Trust qualify as a tax-exempt organization under the provisions of Section

501(c)(3) of the Code and which is other than a private foundation by reason of being described in Section 509(a)(3) of the Code. Notwithstanding any other provision of these articles, the Trust shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from federal income tax under Section 501(c)(3) of the Code or (b) by an organization, contributions to which are deductible for federal income, gift and estate tax purposes. National Gypsum and the Trustee acknowledge that the United States has not taken a position with respect to the tax status of this Trust.

13.05 Modification. This Trust Agreement may be modified only to the extent that such modification does not change or inhibit the purposes of this Trust as set forth in Section 2.02, provided, however, that the provisions of this Trust Agreement may be modified in order to ensure the Trust's qualification as an organization that is exempt from federal income taxation under Section 501(c)(3) of the Code and to which contributions are deductible for federal income, gift and estate tax purposes.

13.06 Construction of Terms. In the event of any ambiguity or contradiction in the terms of this Trust, such terms shall be construed so as to conform to the provisions of the Settlement Agreement, where applicable, and so as to fulfill the purposes of this Trust.

13.07 Acknowledgment of Lien. The Trustee expressly acknowledges the lien of the United States on all Trust

Escrow Account assets pursuant to Paragraph 15(b) of the Settlement Agreement.

ARTICLE XIV

EFFECTIVENESS

14.01 Effectiveness. This Agreement shall not be deemed effective unless and until the United States Bankruptcy Court for the Northern District of Texas approves the Settlement Agreement. The effective date of this Trust Agreement shall be the Effective Date of the Settlement Agreement.

IN WITNESS WHEREOF, National Gypsum, by its duly authorized officer, hereby sets its hand and seal as Settlor and Rona Pietrzak hereby sets her hand and seal as Trustee.

NATIONAL GYPSUM COMPANY

By: 

Edward A. Porter
Vice President--Administration
and General Counsel

Date: _____

TRUSTEE


Rona Pietrzak

Date: 1/14/93



1627 K Street, N.W. Washington D.C. 20006 202/466-4090

January 15, 1993

Vicki A. O'Meara
Assistant Attorney General for the Environment
and Natural Resources Division
United States Department of Justice
10th and Constitution
Washington, D.C. 20530

Rona Pietrzak
Trustee, Salford Quarry Custodial Trust
640 West Sedgewick Street
Philadelphia, PA 19119

Re: Salford Quarry Custodial Trust Escrow Agreement

Ladies and Gentlemen:

The Adams National Bank ("Escrow Agent") agrees to open accounts in the name of the Trust and to hold, as escrow agent, the securities and other assets herewith and hereafter deposited with the Escrow Agent on the following terms and conditions:

ARTICLE 1

DEFINITIONS

1.01 Capitalized Terms. For all purposes of this Escrow Side Letter, the terms "Assistant Attorney General," "Court," "EPA," "Regional Administrator," "Settlement Agreement," "Trust," "Trustee," "Trust Escrow Account," "Trust Maintenance Reserve Fund Account" and "Trust Response Fund Account" shall

AR200213

have the meanings ascribed to them in the Trust Agreement. The following terms shall have the meanings set forth below:

"Escrow Side Letter" shall mean this Salford Quarry Custodial Trust Escrow Side Letter.

"Residual Escrow Fund" and "Residual Escrow Fund Account" shall mean the fund established out of the assets of the Trust Maintenance Reserve Fund pursuant to section 9.01 of this Escrow Side Letter and the account opened pursuant to section 9.01 in which the Residual Escrow Fund is to be held.

"Trust Agreement" shall mean the agreement between National Gypsum Company and Rona Pietrzak establishing the Salford Quarry Custodial Trust.

1.02 Incorporation of Certain Definitions. Capitalized terms used herein without definition shall have the meanings ascribed to them in the Settlement Agreement and/or the Trust Agreement.

ARTICLE 2

PURPOSE

2.02 Purpose of Agreement. This Escrow Side Letter is being entered into pursuant to the Trust Agreement and the Settlement Agreement for the purpose of establishing and setting the terms and conditions governing the Trust Escrow Accounts contemplated and required by the Settlement Agreement and the Trust Agreement.

ARTICLE 3

TRUST ESCROW ACCOUNTS

3.01 Establishment of Accounts. The Escrow Agent shall establish two accounts, the Trust Maintenance Reserve Fund Account and the Trust Response Fund Account, in which it shall hold the assets deposited hereunder. The Escrow Agent shall credit each of the Trust Escrow Accounts with all of their respective receipts of interest, dividends and other income received on the account assets, and the proceeds of the sale of any such assets.

3.02 Disbursements from the Trust Maintenance Reserve Fund Account. The Escrow Agent shall make disbursements from the Trust Maintenance Reserve Fund Account as instructed by the Trustee, provided that the Escrow Agent has not received a written objection to such disbursement from the Regional Administrator within fifteen days after the Escrow Agent receives the instructions from the Trustee. In the event of objection, the Escrow Agent shall withhold payment until the Regional Administrator waives the objection or a Court orders payment.

3.03 Payment of Trustee's Salary. Upon the Trustee's direction, the Escrow Agent shall disburse from the Trust Maintenance Reserve Fund Account on a monthly basis one-twelfth of the Trustee's annual compensation as established pursuant to Section 9.04 of the Trust Agreement notwithstanding the absence of notice to the Regional Administrator, provided that in the event that a successor Trustee is appointed pursuant to Article X

of the Trust Agreement, the Escrow Agent shall not begin making payments to the successor Trustee until receipt of written authorization from the Assistant Attorney General.

3.04 Disbursements from the Trust Response Fund Account. The Escrow Agent shall make disbursements from the Trust Response Fund Account as instructed by the Regional Administrator, provided that the Escrow Agent has not received a written objection to such disbursement from the Trustee within ten days after the Escrow Agent receives the instructions from the Regional Administrator. In the event of objection, the Escrow Agent shall withhold payment until the Trustee waives the objection or a Court orders payment. Disbursements pursuant to this Section shall be made by Electronic Funds Transfer (EFT or wire transfer) to the U.S. Department of Justice lockbox bank and referencing: CERCLA Number 03-Y3; DOJ Case Number 90-11-2-689; and the U.S. Attorney's Office File Number 91-04-098 or to such other location as the then Regional Administrator designates.

3.05 Merger of Trust Escrow Accounts. Fifteen years after the effective date of the Trust Agreement, the Trust Escrow Accounts shall be merged and any assets remaining in the Trust Response Fund Account shall be incorporated into and treated as part of the Trust Maintenance Reserve Fund and shall be held in the Trust Maintenance Reserve Fund Account.

ARTICLE 4

INVESTMENT OF TRUST ESCROW ACCOUNTS

4.01 Investment of Trust Escrow Account Assets. The Escrow Agent shall invest and reinvest the assets of the Trust Escrow Accounts (including any undistributed income from either) in accordance with the instructions issued by the Trustee and approved by the Regional Administrator pursuant to Section 6.01 of the Trust Agreement.

ARTICLE 5

UNITED STATES LIEN

5.01 Acknowledgment of Lien. The Escrow Agent expressly acknowledges the lien of the United States on all Trust Escrow Account assets pursuant to Paragraph 15(b) of the Settlement Agreement.

5.02 Transfer to the United States of Trust Escrow Assets. The Escrow Agent shall, immediately upon receipt of a notice from the Assistant Attorney General in the form set forth in Exhibit B to the Trust Agreement, transfer the assets designated therein to the United States as directed therein and shall close the Trust Escrow Account or Accounts associated with the transferred assets. Notwithstanding any other provision of this Escrow Side Letter or the Trust Agreement, if the assets of the Trust Maintenance Reserve Fund Account are to be transferred pursuant to this section, the Escrow Agent shall set aside out of

those assets sufficient assets to establish the Residual Escrow Fund pursuant to section 9.01 below.

ARTICLE 6

CONDITIONS OF ESCROW AGENT'S OBLIGATIONS

The Escrow Agent's obligations under this Escrow Side Letter are subject to the following express terms and conditions:

6.01 Limitation of Liability. In no event shall the Escrow Agent be liable pursuant to this Escrow Side Letter except for its negligence, gross negligence or willful acts or omissions in relation to its duties hereunder.

6.02 Reliance on Documentation. The Escrow Agent shall be protected in acting in accordance with the provisions of this Escrow Side Letter upon any notice, requisition, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons.

6.03 Escrow Agent's Compensation. The Escrow Agent shall be compensated for its expenses incurred (including the cost of the audit conducted pursuant to Section 9.01 of this Escrow Side Letter) and services rendered hereunder in accordance with Exhibit A attached hereto. The Escrow Agent is hereby authorized to deduct its compensation on an annual basis from the Trust Maintenance Income until closure of the Trust Maintenance Reserve Fund Account and thereafter from the Residual Escrow Fund.

ARTICLE 7

SUBSTITUTION OF ESCROW AGENT

7.01 Replacement by the United States. The Assistant Attorney General may, at his or her discretion, replace the Escrow Agent by giving written notice to the Escrow Agent, which shall within fifteen days of receipt of such notice transfer the assets of the Trust Escrow Accounts to the Assistant Attorney General's designee. Any such designee shall be a substantial financial institution competent to carry out the functions of the Escrow Agent pursuant to this Escrow Side Letter.

7.02 Resignation by Escrow Agent. The Escrow Agent may terminate its role hereunder by giving written notice of its desire to do so to the Assistant Attorney General, who shall within ninety days designate an appropriate successor pursuant to Section 7.01 above. The Escrow Agent shall recommend a successor escrow agent to the Assistant Attorney General at the time it gives notice of resignation which successor has agreed to assume the responsibilities of Escrow Agent under this Escrow Side Letter.

ARTICLE 8

CLOSURE OF TRUST ESCROW ACCOUNTS

8.01 Notice of Trust Termination. Upon termination of the Salford Quarry Custodial Trust, the Trustee and the Assistant Attorney General shall execute and deliver to the Escrow Agent a

Notice of Trust Termination in the form set forth in Exhibit B hereto.

8.02 Closure of Accounts. Within thirty days of the Escrow Agent's receipt of the Notice of Trust Termination, and after payment of all disbursements in accordance with sections 3.02 and 3.04 of this Escrow Side Letter and of the Escrow Agent's compensation pursuant to Section 6.03 of this Escrow Side Letter, the Escrow Agent shall transfer the remaining assets in the Trust Escrow Accounts, with the exception of the Residual Escrow Fund, to the person or persons specified in the Notice of Trust Termination and shall close the Trust Escrow Accounts.

ARTICLE 9

RESIDUAL ESCROW FUND ACCOUNT

9.01 Establishment of Residual Escrow Fund Account. Upon closing the Trust Maintenance Reserve Fund Account pursuant to either section 5.02 or section 8.02 above, the Escrow Agent shall set aside out of the assets of the Trust Maintenance Reserve Fund a Residual Escrow Fund of one hundred thousand dollars (\$100,000.00) and shall open a Residual Escrow Fund Account in which the Residual Escrow Fund shall be held. The Escrow Agent shall invest and reinvest the assets of the Residual Escrow Fund (including any undistributed income) in accordance with instructions issued by the Regional Administrator no more frequently than twice per year.

9.02 Disbursements from the Residual Escrow Fund Account. The assets constituting the Residual Escrow Fund may be used only to pay the Escrow Agent's compensation in accordance with section 6.03 hereof and attorneys fees or other litigation costs and expenses of any Trustee or former Trustee of the Salford Quarry Custodial Trust in the event that the Trustee or former Trustee is sued in his or her personal capacity with respect to the Salford Quarry or the Trust. When a Trustee or former Trustee incurs such costs or expenses, he or she shall deliver to the Escrow Agent and the Regional Administrator a written request for disbursement, together with sufficient documentation to establish the regularity of the request. The request shall direct the Escrow Agent to disburse funds in accordance with the request fifteen days after it receives the request, provided that the Regional Administrator has not furnished the Escrow Agent with a written objection within the fifteen-day period. In the event of an objection, the Escrow Agent shall be directed to withhold payment until the Regional Administrator waives his or her objection or a Court orders the payment.

ARTICLE 10

ACCOUNTS

10.01 Annual Accounts. By each March 31, the Escrow Agent shall render an account for the prior year ended December 31, accompanied by a report of its accountants stating

that an audit of such accounts has been made in accordance with generally accepted auditing standards, stating the opinion of such accountants in respect of the accounts and the accounting principles and practices reflected therein and as to the consistency of the application of the accounting principles, and identifying any matters to which such accountants take exception and stating, to the extent practicable, the effect of such exception of such accounts. Each account and report shall be rendered to the Trustee and the Regional Administrator.

ARTICLE 11

TERMINATION

11.01 Termination of Escrow. The escrow established pursuant to this Escrow Side Letter shall terminate upon the sooner of (a) the exhaustion of the Residual Escrow Fund; or (b) the tenth anniversary of the termination of the Salford Quarry Custodial Trust. Upon termination, the Escrow Agent shall transfer any assets remaining in the Residual Escrow Fund to the United States by Electronic Funds Transfer (EFT or wire transfer) to the U.S. Department of Justice lockbox bank, and referencing: CERCLA Number 03-Y3; DOJ Case Number 90-11-2-689; and the U.S. Attorney's Office File Number 91-04-098 or to such other location as the then Regional Administrator designates.

ARTICLE 12

MISCELLANEOUS

12.01 Particular Words. Any word contained in the text of this Escrow Side Letter shall be read as singular or plural and as masculine, feminine or neuter as may be applicable or permissible in the particular context. Unless otherwise specifically stated the word "person" shall be taken to mean and include an individual, partnership, association, company or corporation.

12.02 Severability of Provisions. If any provision of this Escrow Side Letter or its application to any person or entity or in any circumstances shall be held to be invalid and unenforceable, the application of such provision to persons or entities and in circumstances other than those as to which it is invalid or unenforceable, and the other provisions of this Escrow Side Letter shall not be affected by such invalidity or unenforceability.

12.03 Governing Jurisdiction. This Escrow Side Letter shall be enforceable in a federal court of competent jurisdiction (or if no federal court has jurisdiction over the matter, a state or other court of competent jurisdiction). The validity, interpretation and performance of this Escrow Side Letter shall be governed by the laws of the Commonwealth of Pennsylvania, subject to the provisions of the Settlement Agreement.

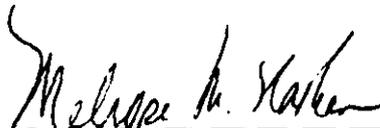
12.04 Construction of Terms. In the event of any ambiguity or contradiction in the terms of this Escrow Side Letter, such terms shall be construed so as to conform to the provisions of the Settlement Agreement, where applicable, and so as to fulfill the purposes of this Escrow Side Letter.

12.05 Effectiveness. This Escrow Side Letter shall not be deemed effective unless and until the United States Bankruptcy Court for the Northern District of Texas approves the Settlement Agreement. The effective date of this Escrow Side Letter shall be the Effective Date of the Settlement Agreement.

Very truly yours,

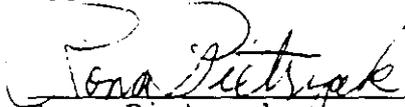
THE ADAMS NATIONAL BANK

By:



Melrose M. Nathan
Assistant Treasurer

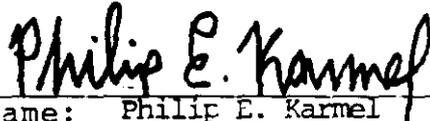
Approved By:



Rona Pietrzak
Trustee, Salford Quarry Custodial Trust

United States of America

By:



Name: Philip E. Karmel
Title: Trial Attorney, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

EXHIBIT A

(Escrow Agent's Compensation)

The Escrow Agent's compensation shall be a fixed fee of \$2,500 per annum. The Escrow Agent shall bear all its expenses incurred in carrying out the provisions of this Escrow Side Letter.

AR200225

EXHIBIT B

(Form of Notice of Trust Termination)

[name] [date]
[address]

Re: Notice of Termination of Salford Quarry Trust

Dear Sir or Madam:

Pursuant to Section 8.01 of the Salford Quarry Custodial Trust Escrow Side Letter, the undersigned hereby notify you that the Trust is being terminated pursuant to Section 11.03 of the Trust Agreement governing the Salford Quarry Custodial Trust. You are hereby directed to execute and deliver to [name] any and all documents necessary to effect the transfer of the assets of the Trust Maintenance Reserve Fund Account (with the exception of the Residual Escrow Fund) and the Trust Response Fund Account to (name) within thirty days of receipt of this Notice. Any correspondence regarding the transfer of the above-named accounts may be directed to [name] at the following address: [address]

Very truly yours,

Assistant Attorney General
for the Environment and
Natural Resources Division,
United States Department
of Justice

Trustee, Salford Quarry
Custodial Trust

Signed and attested before
me on this __ day of __.

Signed and attested before
me on this __ day of __.

Notary Public

Notary Public

AR200226

MYLES E. FLINT, Acting Assistant Attorney General
Environment and Natural Resources Division

JOEL GROSS, Deputy Chief
ANNA L. WOLGAST, Senior Counsel
PHILIP E. KARMEL, Trial Attorney
SUZANNE LACAMPAGNE, Trial Attorney
JEFFERY GORDON, Trial Attorney
PETER JAFFE, Trial Attorney
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
(202) 514-4183

MARVIN COLLINS
United States Attorney for the Northern District of Texas

REBECCA A. GREGORY
Texas State Bar # 08438300
Assistant United States Attorney
1100 Commerce Street
Room 16 G 28
Dallas, TX. 75242-1699
(214) 767-0951

Attorneys for the United States of America

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

IN RE:)	
)	
NATIONAL GYPSUM COMPANY,	)	BK-390-37213-SAF-11
a Delaware Corporation	)	BK-390-37214-SAF-11
)	
AANCOR HOLDINGS, INC.,)	
a Delaware Corporation	)	Jointly Administered
	)	Chapter 11
)	
Debtors.)	
)	

CERTIFICATE OF SERVICE

I hereby certify that "United States' Memorandum in Support of Approval of Second Settlement Agreement Between the United States and the Debtors" was served by (1) sending a copy with Exhibit 1 to the addresses marked with an * on the attached service list via Federal Express on January 25, 1993 and (2) by sending copy without Exhibit 1 to the remaining addresses on the attached service list via first class U.S. mail. A copy of Exhibit 1 will be sent to any party-in-interest upon request made to the undersigned.

Philip E. Karmel

Philip E. Karmel

AR200227

Aancor Holdings, Inc.
Attn: Mr. Edward A. Porter *
2501 Cedar Springs Road
uite 700
Dallas, TX 75201-1433

Alan Kellman
The Maritime Asbestosis
Legal Clinic
1570 Penobscot Building
Detroit, MI 48226

Alan Runyan
Daniel Speights
Speights & Runyan
304 Lee Avenue
P. O. Box 685
Hampton, SC 29924

Ameritrust Texas National Assoc.
1201 Elm Street, 34th Floor
Dallas, TX 75270

Anna Wolgast
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
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Washington, DC 20044

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Sheinfeld, Maley & Kay, P.C. *
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Taylor Lumber Company
atesville, MS 38606

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