

RECORDED

07-20-2000

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U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

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6-26-00

To the Honorable Commissioner of Patents and

original documents or copy thereof.

## 1. Name of conveying party(ies):

PHILIP SERVICES CORP.

100 King Street West, LCD#1

Hamilton, Ontario, Canada L8N 4J6

Additional name(s) of conveying party(ies) attached? ☒ Yes ☐ No

## 3. Nature of conveyance:

☒ Assignment☐ Merger☐ Security Agreement☐ Change of Name☐ Other

Execution Date: April 7, 2000

## 2. Name and address of receiving party(ies)

Name: PHILIP SERVICES INC.

Internal Address:

Street Address:

c/o 5151 San Felipe

City: Houston

State: TX

ZIP: 77056

Additional name(s) & address(es) attached? ☐ Yes ☒ No

## 4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

Please see attached Schedule A.

Please see attached Schedule A.

Additional numbers attached? ☒ Yes ☐ No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: BROBECK, PHLEGER &amp; HARRISON LLP

Internal Address:

Attn: Kimberley A. Lathrop

Street Address: 550 South Hope Street

City: Los Angeles State: CA ZIP: 90071

## 6. Total number of applications and patents involved:

1

7. Total fee (37 CFR 3.41).....\$ 40.00

☒ Enclosed☐ Authorized to be charged to deposit account

## 8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

07/19/2000 ASCOTT 00000251 5940920

DO NOT USE THIS SPACE

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40.00 00

## I. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Kimberley A. Lathrop

Name of Person Signing

Kimberley A. Lathrop

Signature

June 21, 2000

Date

Total number of pages including cover sheet, attachments, and document:

9a

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box AssignmentsPATENT  
REEL: 010919 FRAME: 0255

**1. Additional Names of Conveying Parties:**

Philip Enterprises Inc.  
1195613 Ontario Inc.  
1233793 Ontario Inc.  
912613 Ontario Ltd.  
Allwaste of Canada Ltd.  
Caligo Reclamation Ltd.  
Caligo (Partnership)  
Philip Environmental (Atlantic) Limited  
Philip Environmental Services Limited  
Philip Analytical Services Corporation  
Philip Environmental (Elmira) Inc.  
Delsan Demolition Limited  
2766906 Canada Inc.

**SCHEDULE "A"**

<b><u>Country</u></b>	<b><u>Application Date</u></b>	<b><u>Application No.</u></b>	<b><u>Owner(s)</u></b>
United States	August 24, 1999	5940920	Philip Services Corp.

# ASSIGNMENT OF PATENTS

## (UNITED STATES)

**WHEREAS** Philip Services Corp ("Philip") is the owner of the inventions described in the patent and patent application listed in Schedule "A" hereto (the "Patent");

**AND WHEREAS** pursuant to the order of Ontario Superior Court of Justice dated November 26, 1999 (the "Appointment Order"), Ernst & Young Inc. (which in its capacity as receiver and interim receiver is hereinafter referred to as the "Assignor") was appointed as of the date hereof as receiver under the *Companies' Creditors Arrangement Act* and interim receiver under the *Bankruptcy and Insolvency Act* of certain undertaking, property and assets of Philip and the companies listed in Schedule "B" hereto (collectively, the "Vendors"). Attached hereto as Schedule "C" is a certified copy of the Appointment Order;

**AND WHEREAS** pursuant to the Appointment Order, the Assignor was authorized and directed to adopt and complete a purchase agreement made as of November 30, 1999 between the Vendors and 1381648 Ontario Inc. (now Philip Services Inc.) (the "Assignee"), as it may be further amended, supplemented and restated from time to time, including to transfer certain assets of the Vendors, including the Patent to the Assignee;


**AND WHEREAS** the Assignee, the full post office address of whose principal office or place of business is 100 King Street West, Hamilton, Ontario, wishes to acquire all right, title and interest of the Assignor and Philip, if any, in and to Philip's inventions, as fully described in the Patent listed in Schedule "A" hereto, and the Assignor wishes to transfer all such right, title and interest, if any, to the Assignee;

**NOW THEREFORE** in consideration of the sum of one dollar (\$1.00) and other good and valuable consideration to the Assignor paid, the receipt and sufficiency of which are hereby acknowledged, the Assignor hereby assigns to the Assignee, its successors and assigns, all right, title and interest of the Assignor and Philip, if any, in and to Philip's inventions described in the Patent listed in Schedule "A" hereto, and to all of its corresponding right, title and interest, if any, in and to the Patent, including all divisions, continuations, continuations-in-part, re-examinations, re-issues and any rights of priority resulting from the filing of applications of patent and including the right to sue and/or counter-claim for past, present or future infringement and to recover compensation for such infringement.

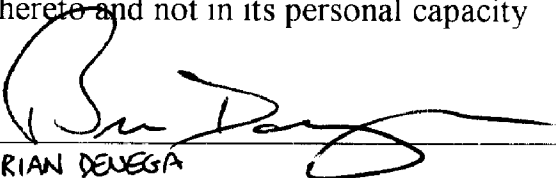
The Assignor, for the consideration aforesaid, does hereby covenant and agree to and with said Philip Services Inc., its successors and assigns, that Assignor has the full power to make this assignment, and that the rights assigned are not encumbered by any grant, license or right heretofore given by the Assignor.

The Assignor further covenants and agrees that it will from time to time execute and deliver all such further documents and instruments and do all acts and things as the Assignee may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Assignment; provided, however, that the obligation of the Assignor to comply with this provision will only survive and be in existence for as long as the Assignor is the receiver and interim receiver of Philip.

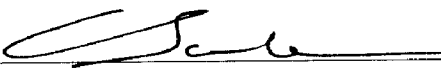
The Assignor executes this Assignment solely in its capacity as receiver and interim receiver of Philip and not in its personal capacity.

**DATED** at Toronto, Ontario this 7<sup>th</sup> day of <sup>April</sup>~~March~~, 2000. 

**ERNST & YOUNG INC.** (the "Assignor"), in its capacity as receiver under the *Companies' Creditors Arrangement Act* and interim receiver under the *Bankruptcy and Insolvency Act* of certain undertaking, property and assets of Philip Services Corp. and the companies listed in Schedule "B" attached hereto and not in its personal capacity

By:   
Name: BRIAN DEVEGA  
Title: SENIOR VICE PRESIDENT

**PHILIP SERVICES INC.** (the "Assignee")

By:   
Name:  
Title:

\*Acknowledgment

**SCHEDULE "A"**

<b><u>Country</u></b>	<b><u>Application Date</u></b>	<b><u>Application No.</u></b>	<b><u>Owner(s)</u></b>
United States	August 24, 1999	5940920	Philip Services Corp.

## **SCHEDULE "B"**

### **Company**

### **Jurisdiction**

Philip Enterprises Inc.	Ontario
1195613 Ontario Inc.	Ontario
1233793 Ontario Inc.	Ontario
912613 Ontario Ltd.	Ontario
Allwaste of Canada Ltd.	Ontario
Caligo Reclamation Ltd.	Ontario
Caligo (Partnership)	Ontario
Philip Environmental (Atlantic) Limited	Nova Scotia
Philip Environmental Services Limited	Ontario
Philip Analytical Services Corporation	Ontario
Philip Environmental (Elmira) Inc.	Ontario
Delsan Demolition Limited	Ontario
2766906 Canada Inc.	Canada

**SCHEDULE "C"**

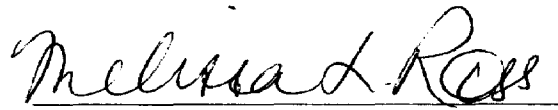
**APPOINTMENT ORDER**



## ACKNOWLEDGMENT

City of Toronto)  
Province of Ontario)  
Country of Canada)

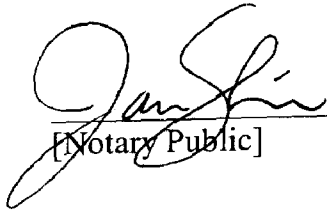
On this 31<sup>st</sup> day of March, 2000, before me appeared Colin Soule, the person who signed this instrument on his own behalf, or who was authorized to sign on behalf of the identified corporation or other juristic entity, who being sworn, acknowledged that he signed this instrument as a free act.

  
[Notary Public]

## ACKNOWLEDGMENT

City of Toronto)  
Province of Ontario)  
Country of Canada)

On this 7<sup>th</sup> day of April, 2000, before me appeared Brian Denega, the person who signed this instrument on his own behalf, or who was authorized to sign on behalf of the identified corporation or other juristic entity, who being sworn, acknowledged that he signed this instrument as a free act.



[Notary Public]

C A N A D A

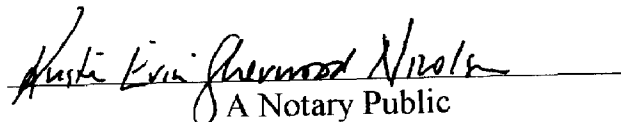
PROVINCE OF ONTARIO

JUDICIAL DISTRICT OF YORK

TO WIT:

I, **KIRSTEN E.S. NICOLSON**, a Notary Public in and for the Province of Ontario, by Royal Authority duly appointed, residing in the City of Toronto, Province of Ontario DO HEREBY CERTIFY that the paper writing hereto annexed, the first page of which is stamped with an impression of my seal, is a true and correct photostat copy of a document produced and shown to me out of custody of Blake, Cassels & Graydon LLP, Toronto, Ontario and purporting to be the original Order of Mr. Justice Blair issued by the Superior Court of Justice (Ontario) and dated November 26, 1999, the said photostat copy having been compared by me, page for page, with the said original document, an act whereof being requested I have granted the same under my hand and notarial seal of office to serve and avail as occasion shall or may require.

**DATED** at Toronto this 7<sup>th</sup> day of March, 2000.

  
A Notary Public  
in and for the Province of Ontario

**SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR. ) FRIDAY, THE 26<sup>TH</sup>  
JUSTICE BLAIR ) DAY OF NOVEMBER, 1999

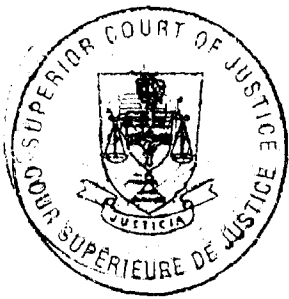
**B E T W E E N:**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT  
ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF THE COURTS OF JUSTICE ACT, R.S.O. 1990,  
c. C-43, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF PHILIP SERVICES CORP. AND THE  
APPLICANTS LISTED ON SCHEDULE "A".**

**APPLICATION UNDER THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C.-36**



**O R D E R**

**THIS MOTION**, made by Philip Services Corp. and those subsidiaries of Philip set out in Schedule "A" (the "Applicants") for an Order sanctioning the Amended and Restated Plan of Compromise and Arrangement dated September 24, 1999 as amended and restated by the Plan Supplement dated October 27, 1999 as amended hereby (the "Plan"), an Order declaring that the Plan is binding on the holders of Affected Secured Lender Claims as defined in the Plan, an Order appointing Ernst & Young Inc. as Receiver of certain of the assets of the Applicants as of the Effective Date as defined in the Plan and an Order authorizing and directing the Applicants and the Receiver to enter into and perform the amended sale agreement attached to the Plan (the "Sale Agreement"), was heard this day, at 393 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion, the Affidavit of Phillip C. Widman, and the Third Report of Ernst & Young Inc. (the "Monitor") dated November 8, 1999 and on hearing the submissions of counsel:

1. **THIS COURT DECLARES** that the time for service of this Notice of Motion and Motion Record be and it is hereby abridged and declares that the Motion is properly returnable today; and further, that the requirement for the service of the Notice of Motion and Motion Record upon interested parties, other than those set out in Schedule "A" to the Notice of Motion, if any, is hereby dispensed with.

2. **THIS COURT DECLARES** that the terms not otherwise defined in this Order shall have the meaning attributed to them in the Plan, a copy of which is attached as Schedule "B" hereto.

**Sanction of Plan**

3. **THIS COURT ORDERS THAT** the relevant class of creditors of the Applicants for the purpose of voting to approve the Plan is the holders of Affected Secured Lender Claims.

4. **THIS COURT DECLARES** that:

- (a) the dissemination of the Plan and the Canadian Disclosure Statement in respect of the Plan to the holders of Affected Secured Lender Claims was duly effected;
- (b) proper notice of the meeting of holders of Affected Secured Lender Claims was given to the creditors entitled to vote thereat;

- (c) the meeting of holders of Affected Secured Lender Claims was duly convened and held pursuant to the provisions of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA");

all in conformity with the Orders of this Court in these proceedings.

5. **THIS COURT DECLARES** that the Plan has been approved by the creditors representing a majority in number and representing two-thirds in value present and voting either in person or by proxy at the meeting of the holders of Affected Secured Lender Claims.

6. **THIS COURT DECLARES** that the amendments to the Plan set forth on Schedule "C" to this Order are not material and are hereby approved without the need for any further meeting of holders of Affected Secured Lender Claims and are included in all references to the "Plan" in this Order.

7. **THIS COURT DECLARES** that:

- (a) the Plan is fair, reasonable and in the best interests of the holders of Affected Secured Lender Claims of the Applicants; and
- (b) all conditions precedent to the granting of this Order as provided for in the Plan have been fulfilled, satisfied or waived pursuant to the terms thereof.

8. **THIS COURT DECLARES** that the Plan be and is hereby sanctioned pursuant to section 6 of the CCAA.

9. **THIS COURT DECLARES** that, as of the Effective Date, the Plan is and shall be binding on the holders of Affected Secured Lender Claims and on the Applicants, and hereby

authorizes the Applicants and the Receiver (as defined below) to take all actions necessary or appropriate to enter into, implement, and consummate the contracts, instruments, releases, leases, indentures and other agreements or documents to be created in connection with the Plan.

10. **THIS COURT ORDERS THAT** the substantive consolidation of the Applicants in the Plan is only for purposes of treating Affected Secured Lender Claims under the Plan and shall not (a) affect the legal and corporate structures of the Applicants, (b) cause any Applicant to be liable for any claim for which it otherwise is not liable and the liability of any Applicant for any such claim shall not be affected by such substantive consolidation, (c) affect Intercompany Claims of Applicants against Applicants, or (d) affect Subsidiary Interests.

11. **THIS COURT DECLARES THAT** except for the reductions expressly provided for in the Plan and without prejudice to those other than the Applicants and the Lenders, the balance of the indebtedness of the Applicants to the Lenders will remain outstanding and will continue to be subject to the terms of the Credit Agreement and secured by the Lenders' Security and will remain in full force and effect.

12. **THIS COURT ORDERS** that the Initial Order dated June 25, 1999, and extended by Orders dated July 12, 1999 and September 13, 1999, shall be continued until the earlier of the Effective Date and December 31, 1999 and the Stay Termination Date referred to therein shall be extended until the earlier of the Effective Date and December 31, 1999.

13. **THIS COURT ORDERS** that the appointment of the Claims Officer shall terminate on the Effective Date, with no further obligations or responsibilities in connection with such appointment.

**Appointment of Receiver and Termination of Monitor**

14. **THIS COURT ORDERS** that, as of the Effective Date, Ernst & Young Inc. be and it is appointed Receiver pursuant to the CCAA and Interim Receiver pursuant to s. 47 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c.B-3 as amended (the "BIA") (collectively, the "Receiver"), without security, of (i) the assets of the Applicants defined as the Purchased Assets in the Sale Agreement, (ii) any assets of the Vendors located in the Province of Newfoundland, and (iii) the shares of Phencorp International B.V., which assets comprise substantially all of the operating assets of such Applicants, with the authority to exercise all the directions, powers, authorities, rights and entitlements set out in this Order with respect thereto. For greater certainty, except as provided in clauses (ii) and (iii) of this paragraph, the Receiver's appointment does not extend to any of the Excluded Assets (as defined in the Sale Agreement).

15. **THIS COURT ORDERS** that the appointment of Ernst & Young Inc., as Monitor of the Applicants in these proceedings be terminated effective as of the Effective Date, with no further obligations or responsibilities in connection with such appointment provided however, that the provisions of paragraphs 44, 45 and 47 of the Order dated June 25, 1999 and continued by Order dated September 13, 1999 including the Protocol therein established, shall continue to apply to the fullest extent necessary to permit the Monitor to complete the passing of its accounts and to receive payment thereon.

**Approval of Amended Sale Agreement**

16. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to adopt and complete the Sale Agreement in accordance with its terms, including the transfer of the Purchased Assets, subject to such further amendments as the Applicants, the



Required Lenders and the Receiver may approve which do not materially adversely affect the financial terms of the Sale Agreement, and to take all steps and execute and deliver all documents contemplated by the Sale Agreement to effect completion thereof.

17. **THIS COURT ORDERS** that, prior to the Effective Date, the Applicants are authorized and directed to apply to this Court for a vesting order, on notice to interested parties, vesting title to the Purchased Assets in the Purchasers free and clear of all the estate, right, title and interest and claims of the Receiver, the Applicants and certain creditors of the Applicants as contemplated by the Sale Agreement, such vesting order to be effective as at the Time of Closing (as defined in the Sale Agreement), and discharging the claims, if any, against the Receiver, its officers, directors, employees, advisors, affiliates or agents, or any party in interest for any act or omission relating to or arising out of the receivership constituted hereunder.

18. **THIS COURT ORDERS** that, on the closing of the Sale Agreement, the Receiver is authorized to direct the Purchasers to issue the common and preferred shares payable as part of the Purchase Price to Philip Services (Delaware) Inc., as assignee of certain of the debt and security of the Lenders.

19. **THIS COURT ORDERS** that nothing in this Order affects the priority or perfection of any security against any of the Purchased Assets or affects or limits any security granted, perfected or authorized pursuant to the Initial Order as amended, including the security of the DIP Lenders, the Account Intermediaries and the Bonding Companies (all as defined in that order) all of which are specifically preserved and shall continue following the sanction of the Plan.

**Powers of Receiver**

20. **THIS COURT ORDERS** that the Receiver shall not go into possession of nor shall it be deemed to have taken possession of any of the Purchased Assets conveyed to the Purchasers at the Time of Closing of the Sale Agreement. To the extent that any of the Purchased Assets or any of the assets referred to in clauses 14(ii) or (iii) cannot be conveyed at the Time of Closing (the "Remaining Assets"), the Receiver shall be at liberty, but shall not be required, with respect to the Remaining Assets:

- (a) to take possession, control, and management of the Remaining Assets;
- (b) to take such steps to receive, protect, dispose of and transfer the Remaining Assets to the extent possible pursuant to the terms of the Sale Agreement, and otherwise as deemed appropriate by the Receiver with the consent of the Required Lenders;
- (c) to make arrangements with such agents, assistants and employees as the Receiver may consider necessary or desirable to secure their assistance in the exercise of the Receiver's powers and the performance of its duties hereunder;
- (d) to institute and prosecute all suits, proceedings, and actions in and before the Courts and administrative bodies, and any and all arbitration proceedings as may in its judgment be necessary for the proper protection, preservation, disposition or sale of the Remaining Assets and likewise to defend all suits, proceedings, arbitration proceedings and actions instituted against it as the Receiver and to appear in and conduct the prosecution and defence of any suits, proceedings,



arbitrations and actions now pending in any Court or administrative body or before any arbitrator against the Applicants relating to the Remaining Assets including such appeals as the Receiver shall deem proper and advisable in respect of any order, decision, or judgment pronounced in any such suits, proceedings, arbitrations or actions;

- (e) to receive and collect all monies now or hereafter owing to the Applicants and to enforce all security held by the Applicants in respect thereof, provided that notwithstanding anything contained herein the Receiver shall not take possession of any cash collateral held by CIBC;
- (f) to extend the time for payment of any monies due to the Applicants with or without security and to settle or compromise any such indebtedness;
- (g) on behalf of the Applicants, to apply for any permits, licenses, approvals or permissions as may be required by any governmental authority;
- (h) to take such steps as the Receiver deems necessary or desirable to preserve and protect the Remaining Assets, with the consent of the Required Lenders, including, making payments to persons having mortgages, charges or encumbrances;
- (i) with the consent of the Required Lenders, to settle and pay any claims which may be made or brought against the Applicants on such terms and in such manner as the Receiver deems necessary or advisable;

- (j) to execute in the name of and on behalf of the Applicants all necessary bills of sale, conveyances, deeds and documents of whatsoever nature which the Receiver considers to be necessary or incidental to the exercise of the powers granted hereby;
- (k) with the consent of the Required Lenders, to vote, on behalf of the Applicants, any shares and exercise any rights the Applicants may have as a shareholder with respect to any shares included in the Remaining Assets;
- (l) to abandon any lease and any ancillary agreements relating to any leased premises; and
- (m) to take any steps, enter into any agreements or incur any obligations necessary or incidental to the exercise of the aforesaid powers.

21. **THIS COURT ORDERS** that the Applicants and their past and present directors, officers, employees, servants, shareholders, lawyers (subject to issues of privilege), accountants, consultants, agents and any and all other persons having notice of this order, deliver the Remaining Assets to the Receiver, as it may require, together with all books, documents, contracts, papers and records of every nature and kind whatsoever relating to the Remaining Assets and the obligations and liabilities of the Applicants relating to the Remaining Assets, and further that such persons grant to the Receiver full access to and use of accounting, data processing and computer facilities relating thereto, provided that such persons shall be required to deliver up copies of such material to the Receiver only upon payment of their fair and reasonable cost of making such copies.

22. **THIS COURT ORDERS** that the Receiver may, from time to time, bring motions before this Court for advice and directions in the exercise of its powers and the performance of its duties hereunder and may apply to this court for its discharge at such time as may be appropriate.

23. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to employ or retain and pay the fees and disbursements of such assistants, agents, employees, experts, auditors, advisers, solicitors, counsel including legal counsel, as it may from time to time consider necessary or desirable for the purposes of receiving, preserving, protecting and realizing upon the Remaining Assets or a part or parts thereof or generally exercising its powers and performing its duties hereunder.

#### **Employees**

24. **THIS COURT ORDERS AND DECLARES** that the Receiver is not the employer of the employees of the Applicants and shall not be liable to any of the employees of the Applicants for any wages (as "wages" are defined in the Employment Standards Act (Ontario) or similar legislation in other provinces) including without limitation severance pay, termination pay and vacation pay or any other obligations of the Applicants to its employees.

#### **Environmental Regulations and Orders**

25. **THIS COURT ORDERS AND DECLARES** that nothing in this Order, nor the adoption and performance of the Sale Agreement, shall vest in the Receiver the ownership, control, possession, occupancy or management of or require the Receiver to enter into possession, occupancy, control or management of any of the Purchased Assets, provided that the

Receiver may and is hereby authorized, if it deems appropriate, to enter into possession, control, occupancy or management of any or all of the Remaining Assets at its discretion.

26. **THIS COURT ORDERS** that the Receiver shall not be deemed, by virtue of this Order in and of itself to be a person responsible, the owner, the occupant or a person in charge of any premises owned or occupied by any of the Applicants for the purposes of any statute, regulation or rule of law or equity applicable in Canada which imposes liability on the basis of such status.

27. **THIS COURT ORDERS** that notwithstanding the foregoing, nothing herein shall prejudice the Receiver's rights as interim receiver under Section 14.06(1.2) or Section 14.06(4) of the BIA.

**Accounting for Receipts and Disbursements**

28. **THIS COURT ORDERS** that the Receiver shall pass its accounts and shall pay the balances in its hands as this Court may direct.

29. **THIS COURT ORDERS** the Receiver's remuneration and any expenses which may be properly made or incurred by the Receiver in connection with the exercise of its powers and the performance of its duties hereunder (including any fees and disbursements of its counsel, on a solicitor and his own client scale) shall be allowed to the Receiver in the passing of its accounts and, except as otherwise provided in this Order, shall form a charge on the Cash Reserve (as defined in paragraph 36) and on the Remaining Assets ranking in priority to all existing charges and encumbrances on the Cash Reserve and the Remaining Assets, in favour of the Lenders and all subsequent secured creditors, but subject to the rights of secured creditors having priority over the charges of the Lenders, if any.

30. **THIS COURT ORDERS** that the Receiver shall be at liberty, from time to time, to pay costs and other expenses relating to the Remaining Assets, including its own remuneration and disbursements, from monies in its hands. Any amounts so applied against the Receiver's remuneration and expenses shall constitute advances against the amounts allowed on the passing of the Receiver's accounts.

**Stay of Proceedings**

31. **THIS COURT ORDERS** that, as of the Effective Date, no suits, actions, applications or administrative proceedings, self-help remedies, or any other acts, proceedings, rights or private remedies including, without limitation:

- (a) any right of distraint or termination of any lease;
- (b) any right of termination of any contract of insurance for the Remaining Assets or any portion thereof or in which any of the Applicants is a named or an unnamed insured or from which any of the Applicants may derive a benefit;
- (c) any right of termination, acceleration, suspension, modification, cancellation or alteration of any arrangement or agreement, whether written or oral, to which any of the Applicants is a party or in which any of the Applicants has an interest, whether as principal, agent, nominee or assignee, pertaining to the Remaining Assets, including, without limitation, any security agreement, mortgage, contract, guarantee, management agreement, lease, shareholders' agreement, operating agreement, license, service agreement, agreement of purchase and sale, supply agreement for the supply of goods or services to or by the Applicants, insurance contract, agency agreement, distribution agreement, or conditional sales contract;

- (d) any right of distress or repossession, in relation to amounts due or accruing due or in respect thereof;
- (e) any right or entitlement to any construction, repair, storage or other lien relating to the Remaining Assets or its proceeds;

shall be taken, commenced, continued or asserted against the Receiver, the Applicants in respect of disputes relating to the Remaining Assets or the Remaining Assets by any creditors, customers, clients, suppliers, contractors, lenders, landlords (including, without limitation, equipment lessors and lessors of real property), sub-landlords, tenants, sub-tenants, licensors, licensees, governments of any nation, province, state or municipality or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government in Canada or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, or by any other person, firm, corporation or entity wherever situate or domiciled (collectively, "Persons" and, individually, "Person"), without the specific written consent of the Receiver or leave of this Court first being obtained on seven days notice to the Receiver.

32. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to withhold from the Purchased Assets which is cash to be conveyed under the Sale Agreement a reserve (the "Cash Reserve") in such amount:

- (a) as is necessary to ensure that all amounts which the Applicants are required to pay pursuant to the Initial Order are paid; and



- (b) as the Receiver may estimate is necessary and the Required Lenders may agree, to provide security and indemnity for or in respect of any costs, expenses and liabilities of the Receiver in respect of any matter, cause or thing arising from its appointment hereunder and the fulfilment of its obligations under this Order with the exception of those liabilities of the Receiver arising from the Receiver's gross negligence or wilful misconduct.

and the Receiver is hereby authorized and directed to pay all amounts in subparagraph (a) which are due.

**Miscellaneous**

33. **THIS COURT ORDERS** that the liability of the Receiver which it may incur as a result of its appointment or as a result of the performance of its duties hereunder, save and except gross negligence or wilful misconduct, shall be limited to the amounts remaining in the Cash Reserve after the remuneration and disbursements of the Receiver and any costs or obligations incurred by the Receiver or by any other person in connection with the performance of its duties hereunder have been repaid.

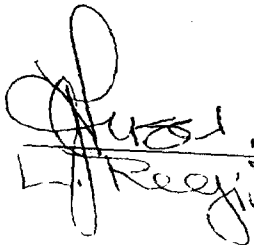
34. **THIS COURT ORDERS** that the provisions of this Order and the Plan are non-severable and mutually dependent.

35. **THIS COURT ORDERS** that any of the Applicants, the Monitor or the Lenders may from time to time apply to this court for directions or other relief in respect of any matter arising from this order and the Plan on notice to the Applicants, the Monitor, the Lenders and any other interested party.

36. **THIS COURT HEREBY** seeks and requests the aid and recognition of any Court or administrative body in any Province of Canada including the assistance of any court in Canada pursuant to s. 188 of the *Bankruptcy and Insolvency Act* and section 17 of the CCAA, any Canadian Federal Court or administrative body and any federal or state Court or administrative body in the United States of America or elsewhere to assist in carrying out the terms of this order including the making of such vesting orders as may be requisite or desirable to complete the disposition of such of the Purchased Assets and Remaining Assets as may be within the jurisdiction of such courts or administrative bodies. The Receiver shall be at liberty and is hereby authorized and empowered to apply, without notice to the Applicants, as it may consider necessary or desirable to any other Courts or administrative bodies, whether in Canada, the United States or elsewhere, for orders recognizing the appointment of the Receiver in such other jurisdictions. All Courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and provide such assistance to the Receiver, as an officer of the Court, as they may deem necessary or appropriate for the purposes for which the Receiver was appointed.

37. **THIS COURT ORDERS** that nothing herein shall in any way be construed to require any regulatory authority to obtain consent of the Receiver or leave of the court to conduct its day to day regulatory functions and to take emergency measures in order to protect human health, human life and property.

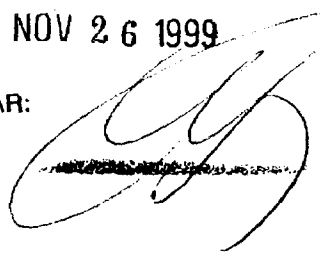
38. **THIS COURT ORDERS** that nothing in this order affects the rights or obligations of any party with regard to settlement agreements entered into with any of the Applicants as approved by this Court.

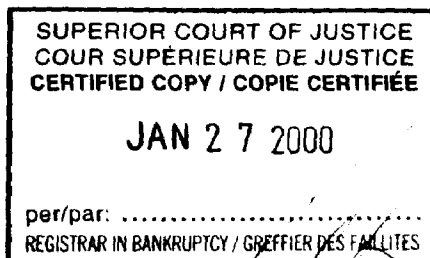
  
L. Registrar,

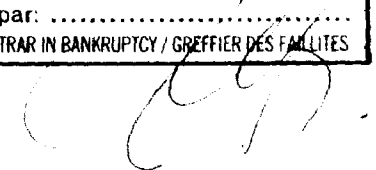
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PER/PAR:







## **SCHEDULE "A"**

### **APPLICANTS**

2766906 Canada Inc.	ServTech Canada, Inc.
721646 Alberta Ltd.	ST Delta Canada, Inc.
Allwaste of Canada Ltd.	Sablrix Inc.
Caligo Reclamation Ltd.	Philip Analytical Services Corporation
Philip Enterprises Inc./ Les Entreprises Philip Inc.	Philip Environmental (Atlanta) Limited
1195613 Ontario Inc.	Philip Environmental (Elmira) Limited
1233793 Ontario Inc.	Philip Environmental Services Limited
2842-7979 Quebec Inc.	Deslan Demolition Limited
800151 Ontario Inc.	Philip Investment Corp.
842578 Ontario Limited	Philip Plasma Metals Inc.
912613 Ontario Ltd.	PSC/IML Acquisition Corp.
Nortu, Ltd.	Recyclage d'Aluminium Quebec Inc./Quebec Aluminium Recycling Inc.
Allies Staffing Ltd.	

**SCHEDULE "B"**

Court File No.: 99-CL-3442

**SUPERIOR COURT OF JUSTICE  
(Commercial List)**

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT  
ACT*, R.S.C. 1985, c. C-36., AS AMENDED**

**AND IN THE MATTER OF *THE COURTS OF JUSTICE ACT*, R.S.O. 1990,  
c. C-43, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE AND  
ARRANGEMENT OF PHILIP SERVICES CORP. AND THE  
APPLICANTS LISTED ON SCHEDULE "A".**

**APPLICATION UNDER *THE COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C.-36, AS AMENDED.**

**SUPPLEMENT TO THE AMENDED AND RESTATED PLAN OF  
COMPROMISE AND ARRANGEMENT DATED  
SEPTEMBER 24, 1999**

October 27, 1999  
(as amended on November 22, 1999)

## PLAN SUPPLEMENT

This Plan Supplement amends and restates the Amended and Restated Plan of Compromise and Arrangement dated September 24, 1999 of Philip Services Corp. and its Canadian subsidiaries listed on Schedule "A" hereto pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1995, c. C-36, as amended.

### ARTICLE 1 INTERPRETATION

#### Section 1.1 Definitions

In this Amended Plan (including the Schedules hereto), unless otherwise stated or the context otherwise requires:

**"Account Intermediaries"** means (a) CIBC in its capacity as the provider of the CIBC Bank Account Services, and (b) Comerica Bank and its affiliates in their respective capacities as the providers of the Comerica Bank Account Services;

**"Administrative Agent"** means CIBC or its successor as administrative agent for the Lenders under the Credit Agreement;

**"Affected Claim"** means an Affected Secured Lender Claim;

**"Affected Creditor"** means a holder of an Affected Claim;

**"Affected Secured Lender Claim"** means a Secured Claim of a Lender against the Applicants arising under or as a result of the Credit Facility Agreements other than any Other Secured Claims;

**"Affected Secured Creditor"** means a holder of an Affected Secured Lender Claim;

**"Applicants"** means PSC and each of the Canadian Subsidiaries and  
**"Applicant"** means any one of the Applicants;

**"Assumed Indemnification Obligations"** means (a) the obligations of PSC pursuant to section 7.02 of its bylaws to indemnify current and former directors and officers, on the terms and subject to the limitations described therein, if and to the extent that such indemnification is permissible under the Business Corporations Act (Ontario) or such other applicable governing corporate statute and (b) the obligations of the Applicants other than PSC to indemnify current and former directors and officers under their respective

bylaws to the extent such indemnification obligations are not more expansive than those of PSC under section 7.02 of its bylaws if and to the extent such indemnification is permissible under the applicable governing corporate statute of the applicable Applicant; in each case, including any affirmative obligation of the Applicants to indemnify current and former directors and officers in connection with any governmental, regulatory or enforcement investigation or action and in each case solely with respect to such officer's or director's actions subsequent to becoming an officer or director of PSC or of a director or indirect subsidiary or affiliate of PSC; *provided, however*, that Assumed Indemnification Obligations shall not include Excluded Indemnification Obligations;

**"BTCO"** means Bankers Trust Company;

**"Business Day"** means a day which is not (i) a Saturday or a Sunday; or (ii) a day observed as a holiday under the laws of the Province of Ontario or the applicable federal laws of Canada;

**"Canadian Subsidiaries"** means, collectively, the direct and indirect subsidiaries of PSC listed on Schedule "A" hereto;

**"CCAA"** means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

**"CCAA Proceedings"** means the CCAA cases of PSC and the Canadian Subsidiaries before the Court pursuant to the CCAA;

**"Chapter 11 Cases"** means the jointly administered Chapter 11 cases of PSI, PSC and the U.S. Subsidiaries before the United States Bankruptcy Court pursuant to the provisions of Chapter 11 of the United States Bankruptcy Code;

**"CIBC"** means Canadian Imperial Bank of Commerce;

**"CIBC Bank Account Services"** means "CIBC Bank Account Services" as defined in the Credit Agreement;

**"Claim"** means any right of any Person against any Applicant in connection with any indebtedness, liability or obligation of any kind of any Applicant whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, unknown, by guarantee, by surety or otherwise and whether or not such a right is executory in nature, including, without limitation, the right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter,

action, cause or chose in action whether existing at present or commenced in the future based in whole or in part on facts which exist prior to or at the time of the first Creditors' Meeting other than (i) a claim of a United States resident against PSC, or (ii) a claim of a Canadian resident against PSC which the holder of the claim has voluntarily agreed is to be subject to and bound by the provisions of the U.S. Plan, and has consented to have the allowance and priority of such claim determined in accordance with the provisions of the U.S. Bankruptcy Code;

**"Class"** means the Class consisting of all holders of Affected Secured Lender Claims;

**"Comerica Bank Account Services"** means "Comerica Bank Account Services" as defined in the Credit Agreement;

**"Common Shares"** means common shares in the capital of PSC;

**"Confirmation Date"** means the date that the Confirmation Order is made;

**"Confirmation Order"** means the order of the Court sanctioning and approving the Amended Plan appointing the Receiver as of the Effective Date and authorizing and directing the Selling Applicants and the Receiver to enter into and perform the Sale Agreement;

**"Court"** means the Ontario Superior Court of Justice;

**"Credit Agreement"** means the Credit Agreement dated as of August 11, 1997 among PSC, as borrower in Canada, PSI, as borrower in the United States, the Lenders, CIBC, as administrative agent for the Lenders, BTCo, as syndication agent, and CIBC and BTCo, as co-arrangers, as amended by amending agreements dated as of October 31, 1997, February 19, 1998, June 24, 1998, October 20, 1998 and December 4, 1998;

**"Credit Documents"** means the "Credit Documents" as defined in the Credit Agreement;

**"Credit Facility Agreements"** means the Credit Agreement, the Credit Documents and the Lender Lock-Up Agreement;

**"Creditor"** means any Person having a Claim and may, if the context requires, mean a trustee, receiver, receiver manager or other Person acting on behalf of such Persons, but a Creditor shall not include a Person having a Claim in respect of an Unaffected Obligation;



**"Creditors' Meeting"** means the meeting of the Affected Secured Creditors called for the purpose of considering and voting upon this Amended Plan and includes any adjournment of such meeting;

**"Creditors' Meetings Order"** means the Order of the Court dated September 23, 1999 establishing procedures for proving Claims and setting the date for the Creditors' Meetings, as amended or supplemented from time to time;

**"Date of Filing"** means June 25, 1999;

**"DIP Agent"** means BTCO, in its capacity as administrative agent under the DIP Facility Agreement;

**"DIP Co-Arrangers"** means BTCO and CIBC, in their capacities as co-arrangers of the DIP Facility;

**"DIP Facility Agreement"** means the Credit Agreement between PSC and PSI as borrowers, the Canadian Subsidiaries and U.S. Subsidiaries as guarantors, certain other Subsidiaries as guarantors, the DIP Agent, and the DIP Co-Arrangers, and the other lender signatories thereto;

**"DIP Facility"** means the debtor-in-possession credit facility to be provided to PSC, PSI, the Canadian Subsidiaries and the U.S. Subsidiaries during the CCAA Proceedings and Chapter 11 Cases in the principal amount of US\$100 million of available credit pursuant to the DIP Facility Agreement;

**"DIP Facility Claim"** means a Claim arising under or as a result of the DIP Facility;

**"Directors and Officers"** means the current and former directors and officers of the Applicants resident in Canada;

**"Disclosure Statements"** means the written disclosure statements that relate to the Plan or the U.S. Plan, as such documents may be amended, supplemented or modified from time to time and **"Disclosure Statement"** means any one of them;

**"Dollars" or "\$"** means lawful money of Canada unless otherwise indicated;

**"Effective Date"** means the Business Day on which all conditions to implementation of the Plan as set forth in Section 5.4 have been satisfied or waived as provided in Section 5.5 and is the effective date of this Amended Plan;

**"Excluded Indemnification Obligations"** means, in the case of PSC, "Excluded Indemnification Obligations" (as defined in the U.S. Plan) of PSC to any Canadian resident and, in the case of any of the Canadian Subsidiaries, means Claims of any Canadian residents against any of the Canadian Subsidiaries that would be "Excluded Indemnification Obligations" under the U.S. Plan if such Canadian Subsidiaries were U.S. Plan Applicants and in each case includes Claims of any Canadian residents against any of the Applicants that are not Assumed Indemnification Obligations. For greater certainty, "Excluded Indemnification Obligations" shall not affect the set-off rights, if any, of any Person;

**"Exit Facility"** means the new senior secured credit facility in an aggregate principal amount of approximately US\$125 million, which PSI and the Subsidiaries anticipate entering into as a condition to the consummation of the U.S. Plan;

**"Initial Order"** means the Order of the Court dated June 25, 1999, as amended from time to time, pursuant to which, among other things, the Applicants were granted certain relief pursuant to the CCAA;

**"Intercompany Claims"** means, as the case may be, any Claim of (a) any Subsidiary against an Applicant, (b) any Subsidiary against a Subsidiary, or (c) PSC against any Subsidiary;

**"Lender"** means a "Lender" as defined in the Credit Agreement, CIBC as administrative agent, BTCo as syndication agent, CIBC and BTCo as co-arrangers, and their individual successors and assigns;

**"Lender Claim"** means a Claim of a Lender arising under or as a result of the Credit Facility Agreements;

**"Lender Lock-Up Agreement"** means the letter agreement dated as of April 5, 1999, as amended and restated as of June 21, 1999, as may be further amended subsequent to the Date of Filing, among PSC and the Lenders signatories thereto with respect to the principal terms and conditions of this Amended Plan and the U.S. Plan;

**"Lenders' Security"** means the security granted by the Applicants in favour of the Security Agent or the Administrative Agent on behalf of the Lenders;

**"Lien"** means a charge against or interest in property to secure payment of debt or performance of an obligation;

**"Monitor"** means Ernst & Young Inc. and any successor thereto appointed in accordance with the Initial Order or any further Order;

**"New Guarantees"** means, collectively, the secured guarantees of the Subsidiaries to be entered into as of the Effective Date to guarantee and secure the New Senior Secured Term Debt and the New Secured PIK Debt (as defined in the U.S. Plan);

**"Order"** means any order of the Court in these proceedings;

**"Other Secured Claims"** means, collectively, the Secured Claims of the Account Intermediaries, the issuers of letters of credit issued under the Permitted LC Facility established pursuant to Amending Agreement No. 3 to the Credit Agreement and all other Secured Claims against the Applicants, other than the Affected Secured Lender Claims;

**"Person"** means any individual, partnership, joint venture, trust, corporation, unincorporated organization, government or any agency or instrumentality thereof, or any other juridical entity howsoever designated or constituted;

**"Plan"** means the amended and restated plan of compromise and arrangement dated September 24, 1999 of all of the Applicants under the CCAA;

**"Protocol"** means the Cross-Border Insolvency Protocol entered into by the U.S. Bankruptcy Court in the Chapter 11 Cases and by the Court in respect of the CCAA Proceedings;

**"Proven ..... Claim"** of a Creditor means the amount of the Claim of such Creditor as finally determined in accordance with the provisions of the CCAA, any applicable Order or this Plan;

**"PSC"** means Philip Services Corp. or its successor;

**"PSI"** means Philip Services (Delaware), Inc.;

**"Receiver"** has the meaning set forth in Section 4.1;

**"Required Lenders"** means the "Required Lenders" as defined in the Credit Agreement;

**"Required Majority"** means, in respect of the Class, an affirmative vote of two-thirds in value of all Proven Claims of the Class voted in accordance with the voting procedures established hereunder (whether in person or by proxy) and a majority in number of all voting Creditors of the Class;

**"Sale Agreement"** has the meaning set forth in Section 4.1;

**"Secured Claim"** means a Claim that is secured by a Lien or other interest on property in which an Applicant has an interest, whether the Person with such Claim has a security interest by way of a mortgage, lease, chattel mortgage, conditional sale agreement, debenture, security agreement or other security instrument, to the extent of the value of the Claim holder's interest in the Applicant's interests in such property;

**"Security Agent"** means the "Security Agent" as defined in the Credit Agreement;

**"Selling Applicants"** has the meaning set forth in Section 4.1;

**"Subsidiaries"** means, collectively, all of the direct and indirect subsidiaries of PSC and following completion of the Sale Transactions (as defined in Section 4.1) means, collectively, all of the direct and indirect subsidiaries of PSI;

**"Subsidiary Interests"** means, collectively, the issued and outstanding shares in the stock of the Subsidiaries as of the Date of Filing;

**"Transferred Assets"** means the assets and shares sold under the Sale Agreement;

**"Transferred Subsidiaries"** means the corporations whose shares are included in the Transferred Assets;

**"Unaffected Obligations"** means Claims that are not Affected Claims;

**"U.S. Bankruptcy Court"** means the United States Bankruptcy Court having jurisdiction over the Chapter 11 Cases;

**"U.S. Plan"** means the joint plan of reorganization of the U.S. Plan Applicants as filed with the U.S. Bankruptcy Court, as the same may be amended, modified or supplemented from time to time with the consent of the Required Lenders;

**"U.S. Plan Applicants"** means PSC, PSI and each of the U.S. Subsidiaries; and

**"U.S. Subsidiaries"** means PSI and the direct and indirect subsidiaries of PSC set forth in the U.S. Plan.

## **Section 1.2 Interpretation, etc.**

For purposes of the Amended Plan:

- (a) any reference in the Amended Plan to a contract, instrument, release, indenture, or other agreement or document's being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions;
- (b) any reference in the Amended Plan to an existing document or exhibit filed or to be filed means such document or exhibit as it may have been or may be amended, modified, or supplemented;
- (c) unless otherwise specified, all references in the Amended Plan to Sections, Articles and Schedules are references to Sections, Articles and Schedules of or to the Amended Plan;
- (d) the words "herein" and "hereto" refer to the Amended Plan in its entirety rather than to a particular portion of the Amended Plan;
- (e) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Amended Plan;
- (f) where the context requires, a word or words importing the singular shall include the plural and vice versa;
- (g) the words "includes" and "including" are not limiting;
- (h) the phrase "may not" is prohibitive and not permissive; and
- (i) the word "or" is not exclusive.

### **Section 1.3 Date for any Action**

In the event that any date on which any action is required to be taken under this Plan by any of the parties is not a Business Day, that action shall be required to be taken on the next succeeding day which is a Business Day.

### **Section 1.4 Time**

All times expressed in this Amended Plan are local time Toronto, Ontario, Canada unless otherwise stipulated.

### **Section 1.5 Statutory References**

Any reference in this Amended Plan to a statute includes all regulations made thereunder and all amendments to such statute or regulations in force from time to time.

### **Section 1.6 Successors and Assigns**

This Amended Plan shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in this Amended Plan.

### **Section 1.7 Schedules**

The following are the Schedules to this Amended Plan, which are incorporated by reference into this Amended Plan and form part of it:

Schedule "A" - Canadian Subsidiaries

Schedule "B" - Sale Agreement

## **ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN**

### **Section 2.1 Background**

The circumstances and events leading up to the Plan and the U.S. Plan are summarized in the Disclosure Statement that was circulated to Affected Creditors in connection with the Plan and distributed in accordance with the U.S. Bankruptcy Code in connection with the U.S. Plan.

### **Section 2.2 Persons Affected**

This Amended Plan and the U.S. Plan provide for a coordinated restructuring of claims and interests against PSC, PSI, the Canadian Subsidiaries and the U.S. Subsidiaries. This Amended Plan will become effective on the Effective Date and shall be binding on and enure to the benefit of the Applicants and the holders of Affected Secured Lender Claims.

### **Section 2.3 Persons Not Affected**

For greater certainty this Amended Plan does not affect the holders of Unaffected Obligations. Nothing shall affect any Applicant's rights and defences, both legal and equitable, with respect to any Unaffected Obligations including, but not limited to, all rights with respect to legal and equitable defenses to setoffs or recoupments against such Claims. Notwithstanding the substantive consolidation of Claims against the Applicants for certain purposes under this Amended Plan, Claims which are not Affected Claims of any particular Applicant remain the obligations solely of such Applicant and shall not become obligations of any other Applicant.

**ARTICLE 3**  
**CLASSIFICATION OF CREDITORS, VALUATION OF CLAIMS AND**  
**RELATED MATTERS**

**Section 3.1     Classes of Claims**

The only classes of Creditors for the purpose of considering and voting on the Amended Plan shall be Creditors holding Affected Secured Lender Claims.

**Section 3.2     Affected Claims**

Creditors holding Affected Secured Lender Claims shall prove their Claims, vote in respect of the Amended Plan and receive the rights provided for under and pursuant to this Amended Plan.

**Section 3.3     Creditors' Meeting**

The Creditors' Meeting of holders of Affected Secured Lender Claims shall be held in accordance with this Amended Plan, the Creditors' Meetings Order and any further Order. The only persons entitled to attend the Creditors' Meeting are those persons, including the holders of proxies, entitled to vote at the Creditors' Meeting, their legal counsel and advisors and the officers, directors and legal counsel of the Applicants. Any other Person may be admitted on invitation of the chair of the Creditors' Meeting.

**Section 3.4     Approval by Creditors**

In order to be approved, the Amended Plan must receive the affirmative vote of the Required Majority of the holders of Affected Secured Lender Claims.

**Section 3.5     Voting Claims**

The Claim of the holders of Affected Secured Lender Claims has been accepted as filed.

**Section 3.6     Claims for Voting Purposes**

Each Creditor having an Affected Secured Lender Claim shall be entitled to attend and to vote at the Creditors' Meeting. Each Creditor who is entitled to vote shall be entitled to that number of votes at the Creditors' Meeting as is equal to the dollar value of its Claim for voting purposes as determined in accordance with this Article 3 and the provisions of the Creditors' Meetings Order.

## ARTICLE 4 TREATMENT OF AFFECTED CREDITORS

### Section 4.1      Affected Secured Lender Claims

Subject to approval by the Required Majority of holders of Affected Secured Lender Claims,

- (a) The Applicants listed as vendors ("Selling Applicants") in the form of agreement of purchase and sale (the "Sale Agreement") attached as Schedule "B" to this Amended Plan will enter into an agreement to sell their businesses as a going concern to the parties (the "Purchasers") substantially on the terms set out in the Sale Agreement, subject to such amendments as do not materially adversely affect the financial arrangements set out in the Sale Agreement and are approved in the Confirmation Order or other Order (collectively in this section 4.1, the "Order");
- (b) On the Effective Date, the Sale Agreement will be assumed and completed by a receiver and manager or interim receiver (the "Receiver") appointed as of the Effective Date by the Order to convey the assets of the Applicants other than such assets as may be excluded by the terms of the Order. The proceeds of sale will be distributed by the Receiver on the Effective Date in accordance with the legal priorities of the claims against the assets that are to be sold under the Sale Agreement (the "Transferred Assets");
- (c) The holders of Affected Secured Lender Claims consent to the sale of the Transferred Assets substantially on the terms set forth in the Sale Agreement and this Section 4.1 (the "Sale Transactions"), provided that the net proceeds of sale remain subject to the Lenders' Security;
- (d) All assets of the Applicants that are excluded from the Sale Transactions will remain the property of the relevant Applicant. All such assets and the assets of the Applicants other than the Selling Applicants will remain subject to the Lenders' Security;
- (e) The indebtedness of the Applicants to the Lenders will be reduced;
  - (i) on completion of the distribution of proceeds of the Sale Transactions to holders of Affected Secured Lender Claims, by an amount equal to the Purchase Price less the Assumed Senior Liabilities, both as defined under the Sale Agreement;



- (ii) on the first distribution date under the U.S. Plan, by the value of the debt and equity to be distributed to the holders of Class 6 Claims (as defined in the U.S. Plan) on the implementation of the U.S. Plan), and on each subsequent distribution date under the U.S. Plan, by an amount equal to the value of the Class 6 Additional Distribution, if any, on such date,

but, in each case, without duplication (ie. the reduction of indebtedness on account of distributions in one country will only be to the extent that the distributions in such country are not already taken into account in the calculation of the distributions in the other country).

The balance of the indebtedness of the Applicants to the Lenders will remain outstanding and will continue to be subject to the terms of the Credit Agreement and secured by the Lenders' Security, which will remain in full force and effect. The Lenders will not be deemed to have waived any Default or Event of Default under the Credit Agreement or under the Lenders' Security or any remedies thereunder and following the Effective Date may exercise any remedies they may have under the Credit Agreement or the Lenders' Security.

- (f) The following transactions shall occur immediately prior to implementation of the Amended Plan;

- (i) Each holder of a Claim under the Credit Agreement shall be deemed to have exchanged such Claim for an undivided co-ownership interest in all of the Claims under the Credit Agreement in the same aggregate amount as the Claim so exchanged; and
- (ii) Each holder of an Affected Secured Lender Claim will assign to PSI the portion of its Affected Secured Lender Claim which will be repaid from the proceeds of the Sale Transactions to which the holders of Affected Secured Lender Claims are entitled. This assignment will be part of the exchange of debt and other rights with PSI under the U.S. Plan for the debt and equity to be issued by PSI to the holders of Class 6 Claims in the U.S. Plan, and will be on the terms set out in the U.S. Plan, effective after the step described in clause (f)(i) and immediately prior to the distribution of the proceeds of the Sale Transactions to which the holders of Affected Secured Lender Claims are entitled. From and after the assignment, PSI will be entitled to receive all

proceeds from the Sale Transactions that would otherwise be distributed to holders of Affected Secured Lender Claims.

#### **Section 4.2 Other Claims**

Claims that would have been Affected Unsecured Claims (as defined in the Amended and Restated Plan of Compromise and Arrangement of the Applicants dated September 24, 1999) will not be compromised. The holders of Affected Unsecured Claims will have the right, but will not be required, to elect to participate in distributions under the U.S. Plan as provided for therein.

#### **Section 4.3 Substantive Consolidation for Purposes of Treating Affected Claims**

The Amended Plan is premised upon the substantive consolidation of the Applicants only for purposes of treating Affected Secured Lender Claims under the Amended Plan, including for voting, sanction and distribution purposes. This Amended Plan does not contemplate substantive consolidation of the Applicants with respect to Unaffected Obligations. Except as set forth in this Section 4.3, such substantive consolidation shall not (other than for purposes related to the Amended Plan) (a) affect the legal and corporate structures of the Applicants, (b) cause any Applicant to be liable for any Claim under the Amended Plan, for which it otherwise is not liable and the liability of any Applicant for any such Claim shall not be affected by such substantive consolidation, (c) affect Intercompany Claims of Applicants against Applicants, or (d) affect Subsidiary Interests.

### **ARTICLE 5 MISCELLANEOUS**

#### **Section 5.1 Confirmation of Plan**

- (a) Provided that the Amended Plan is approved by the Required Majority of holders of Affected Secured Lender Claims, the Applicants will seek the Confirmation Order (which as proposed shall be in form and substance acceptable to the Applicants and the Required Lenders) for the sanction and approval of the Amended Plan; and
- (b) subject only to the Confirmation Order being granted in form and substance reasonably acceptable to the Applicants and the Required Lenders and the satisfaction of those conditions precedent to implementation of the Amended Plan described in Section 5.4, the Amended Plan will be implemented by the Applicants and will be binding upon the Applicants and all holders of Affected Secured Lender Claims.

## **Section 5.2 Participation in Different Capacities**

Creditors whose Claims are affected by this Amended Plan are affected only in their capacities as holders of such Claims.

## **Section 5.3 Deeming Provisions**

In this Amended Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

## **Section 5.4 Conditions Precedent to Implementation of Plan**

The implementation of the Amended Plan is subject to the following conditions precedent which may not be waived by the Applicants without the consent of the Required Lenders:

- (a) the Confirmation Order sanctioning the Amended Plan, as such Amended Plan may have been modified, in form and substance reasonably satisfactory to the Applicants and the Required Lenders, shall have been entered and the operation and effect of the Confirmation Order shall not have been stayed, reversed or amended, and shall:
  - (i) approve the Sale Transactions and authorize and direct the Applicants to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, leases, indentures and other agreements or documents created in connection with the Amended Plan;
  - (ii) declare that the provisions of the Confirmation Order are nonseverable and mutually dependent;
  - (iii) appoint the Receiver as of the Effective Date and authorize and direct the Receiver to enter into the Sale Agreement and complete the transactions contemplated thereby; and
  - (iv) authorize and direct the Receiver to distribute the shares of the Purchasers to PSI on the Effective Date.
- (b) the following agreements, in form and substance satisfactory to the Applicants, the Purchasers and the Required Lenders shall have been executed and delivered by the Purchasers and the Transferred Subsidiaries, and all conditions precedent thereto shall have been satisfied:
  - (i) New Guarantees and related security documents;

- (ii) If necessary, the Exit Facility;
  - (iii) Agreements evidencing sufficient bonding to meet the projected bonding requirements of the Purchasers and the Transferred Subsidiaries;
  - (iv) Such other documents and agreements as are required to be executed and delivered by subsidiaries of PSI pursuant to the terms of the U.S. Plan; and
- (c) all actions, documents and agreements necessary to implement the Amended Plan and the Sale Agreement shall have been effected or executed; and
- (d) either (i) the U.S. Bankruptcy Court shall have issued a final order under the U.S. Bankruptcy Code confirming the U.S. Plan and all conditions to the effectiveness of the U.S. Plan shall have been satisfied other than the condition that the Alternate Canadian Transactions shall have been authorized to be implemented in accordance with Canadian law and all conditions to the implementation of the Alternate Canadian Transactions (as defined in the U.S. Plan) shall have been satisfied or waived by the Required Lenders other than the conditions that the Plan shall have become effective, and the Alternate Canadian Transactions shall be capable of being implemented on the Effective Date and the only unsatisfied condition to the transactions shall be the effectiveness of the U.S. Plan or (ii) if the Canadian Plan Condition (as defined in the U.S. Plan) has been waived, the U.S. Plan shall have become effective.

#### **Section 5.5 Waiver of Conditions**

Each of the conditions set forth in Section 5.4 above, may be waived in whole or in part by the Applicants with the written consent of the Required Lenders, without any other notice to parties in interest or the Court and without a hearing. The failure to satisfy or waive any condition to the Effective Date may be asserted by the Applicants regardless of the circumstances giving rise to the failure of such condition to be satisfied (including any action or inaction by an Applicant). The failure of an Applicant to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

#### **Section 5.6 Notices**

Any notices or communication to be made or given hereunder shall be in writing and shall refer to this Amended Plan and may, subject as hereinafter

provided, be made or given by personal delivery, by courier, by prepaid mail or by telecopier addressed to the respective parties as follows:

(a) if to the Applicants:

Philip Services Corp.  
100 King Street West  
Hamilton, Ontario  
L8N 4J6

Attention: Colin Soule  
Executive Vice-President, General Counsel and  
Corporate Secretary

Telecopier: (905) 521-9160

(b) if to a Creditor:

to the address for such Creditor specified in the Proof of Claim filed by a Creditor or, if no Proof of Claim has been filed, to such other address at which the notifying party may reasonably believe that the Creditor may be contacted.

(c) if to the Monitor:

P.O. Box 251  
Ernst & Young Tower  
222 Bay Street, 21<sup>st</sup> Floor  
Toronto-Dominion Centre  
Toronto, Ontario  
M5K 1J7

Attention: Murray McDonald  
President

Telecopier: (416) 943-3300

or to such other address as any party may from time to time notify the others in accordance with this Section 5.6. In the event of any strike, lock-out or other event which interrupts postal service in any part of Canada, all notices and communications during such interruption may only be given or made by personal delivery or by telecopier and any notice or other communication given or made by prepaid mail within the five (5) Business Day period immediately preceding the commencement of such interruption, unless actually received, shall be deemed not to have been given or made. All such notices and communications shall be deemed

to have been received, in the case of notice by telecopier or by delivery prior to 5:00 p.m. (local time) on a Business Day, when received or if received after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day and, in the case of notice mailed as aforesaid, on the fifth Business Day following the date on which such notice or other communication is mailed. The unintentional failure by the Applicants to give notice contemplated hereunder to any particular Creditor shall not invalidate this Amended Plan or any action taken by any Person pursuant to this Amended Plan.

### **Section 5.7 Severability of Plan Provisions**

If, prior to the Confirmation Date, any term or provision of the Amended Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of any Applicant, with the consent of the Required Lenders, and to the extent of any modification to the treatment of the Account Intermediaries as holders of Other Secured Claims, the consent of the Account Intermediaries, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Amended Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Amended Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

### **Section 5.8 Successors and Assigns**

The rights, benefits and obligations of any entity named or referred to in the Amended Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such entity.

### **Section 5.9 Exculpation and Limitation of Liability**

Neither the Applicants, the Subsidiaries, the Lenders, any individual, corporation or other entity that was at any time formerly a Lender, the ad hoc steering committee or any other committee of holders of Lender Claims, CIBC as Administrative Agent and co-arranger under the Credit Agreement, BTCo as Syndication Agent and co-arranger under the Credit Agreement, any official committees appointed in the CCAA Proceedings, the DIP Agent, the DIP Co-Arrangers and the holders of DIP Facility Claims, the Security Agent, and the Account Intermediaries, or any of their respective present or former members, officers, directors, employees, advisors, attorneys, or agents, shall have or incur any liability to any holder of an Affected Secured Lender Claim or any other party in

interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, the CCAA Proceedings or the Chapter 11 Cases, formulating, negotiating or implementing the Amended Plan or the Lender Lock-up Agreement, the solicitation of acceptances of the Amended Plan or the Lender Lock-up Agreement, the pursuit of confirmation of the Amended Plan, the confirmation of the Amended Plan, the consummation of the Amended Plan, or the administration of the Amended Plan or the property to be distributed under the Amended Plan, except for their willful misconduct, and in all respects shall be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under the Amended Plan.

The Applicants and the Subsidiaries hereby jointly and severally fully indemnify each of the Lenders, any individual, corporation or other entity that was at any time a Lender, the ad hoc steering committee or any other committee of holders of Lender Claims, CIBC as Administrative Agent and co-arranger under the Credit Agreement, BTCo as Syndication Agent and co-arranger under the Credit Agreement, the DIP Agent, the DIP Co-Arrangers and the holders of DIP Facility Claims, the Security Agent, and the Account Intermediaries, and their respective agents, affiliates, directors, officers, employees, and representatives, including counsel (collectively, the "Indemnitees") against any manner of actions, causes of action, suits, proceedings, liabilities and claims of any nature, costs and expenses (including reasonable legal fees) which may be incurred by such Indemnitee or asserted against such Indemnitee arising out of or during the course of, or otherwise in connection with or in any way related to, the negotiation, preparation, formulation, solicitation, dissemination, implementation, confirmation and consummation of the Amended Plan, other than any liabilities to the extent arising from the gross negligence or willful or intentional misconduct of any Indemnitee as determined by a final judgment of a court of competent jurisdiction. If any claim, action or proceeding is brought or asserted against an Indemnitee in respect of which indemnity may be sought from any of the Applicants or any of the Subsidiaries, the Indemnitee shall promptly notify the Applicants in writing, and the Applicants may assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnitee, and the payment of all costs and expenses. The Indemnitee shall have the right to employ separate counsel in any such claim, action or proceeding and to consult with the Applicants in the defense thereof and the fees and expenses of such counsel shall be at the expense of the Applicants unless and until the Applicants shall have assumed the defense of such claim, action or proceeding. If the named parties to any such claim, action or proceeding (including any impleaded parties) include both the Indemnitee and any of the Applicants or Subsidiaries, and the Indemnitee reasonably believes that the joint representation of such entity and the Indemnitee may result in a conflict of interest, the Indemnitee may notify the Applicants in writing that it elects to employ

separate counsel at the expense of the Applicants, and the Applicants shall not have the right to assume the defense of such action or proceeding on behalf of the Indemnatee. In addition, the Applicants shall not effect any settlement or release from liability in connection with any matter for which the Indemnatee would have the right to indemnification from the Applicants, unless such settlement contains a full and unconditional release of the Indemnatee, or a release of the Indemnatee satisfactory in form and substance to the Indemnatee.

**Section 5.10 Binding Effect**

The Amended Plan shall be binding upon and inure to the benefit of the Applicants and all present and former holders of Affected Secured Lender Claims.

**Section 5.11 Governing Law**

This Amended Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Subject to the Protocol, any questions as to the interpretation or application of this Amended Plan and all proceedings taken in connection with this Amended Plan and its provisions shall be subject to the exclusive jurisdiction of the Court.



## SCHEDULE "A"

### CANADIAN SUBSIDIARIES

2766906 Canada Inc.	ServTech Canada, Inc.
721646 Alberta Ltd.	ST Delta Canada, Inc.
Allwaste of Canada Ltd.	Sablix Inc.
Caligo Reclamation Ltd.	Philip Analytical Services Corporation
Philip Enterprises Inc./ Les Entreprises Philip Inc.	Philip Environmental (Atlantic) Limited
1195613 Ontario Inc.	Philip Environmental (Elmira) Inc.
1233793 Ontario Inc.	Philip Environmental Services Limited
2842-7979 Quebec Inc.	Delsan Demolition Limited
800151 Ontario Inc.	Philip Investment Corp.
842578 Ontario Limited	Philip Plasma Metals Inc.
912613 Ontario Ltd.	PSC/IML Acquisition Corp.
Nortru, Ltd.	Recyclage d'Aluminium Quebec Inc./Quebec Aluminium Recycling Inc.
Allies Staffing Ltd.	

**SCHEDULE "B"**  
**SALE AGREEMENT**

# AGREEMENT OF PURCHASE AND SALE

**THIS AGREEMENT OF PURCHASE AND SALE** is made as of the 30th day of November, 1999

## **B E T W E E N:**

The corporations listed in Schedule "A" which are incorporated under the laws of the jurisdictions set out in Schedule "A"

(collectively, the "**Vendors**")

- and -

**1381648 Ontario Inc.**, a corporation incorporated under the laws of Ontario

(the "**Canadian Purchaser**")

- and -

**1381649 Ontario Inc.**, a corporation incorporated under the laws of Ontario

(the "**Analytical Services Purchaser**")

- and -

**Philip Services International Inc.**, a corporation incorporated under the laws of the State of Delaware

(the "**U.S. Purchaser**")

(collectively, the "**Purchasers**")

## **WHEREAS:**

- A. The Vendors commenced proceedings under the *Companies Creditors Arrangement Act* on June 25, 1999, and Philip Services Corp., Philip Services (Delaware), Inc. and certain of their subsidiaries commenced proceedings under Chapter 11 of the United States *Bankruptcy Code* on the same date;
- B. The Vendors wish to sell the Purchased Assets to complete the reorganization transactions contemplated in the US Plan (as defined below);

- C. The Purchasers wish to purchase the Purchased Assets and to assume the liabilities to be assumed hereunder;

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereto covenant and agree with each other as follows:

## **ARTICLE 1** **INTERPRETATION**

**1.1 Definitions.** In this Agreement, unless the subject matter or context is inconsistent therewith, the following terms shall have the following meanings:

**“Account Intermediaries”** means the “Account Intermediaries” as defined in the Plan Supplement;

**“Account Intermediary Liens”** means Liens held by an Account Intermediary;

**“Accounts Receivable”** means all accounts receivable, bills receivable, trade accounts, book debts and insurance claims of the Vendors together with any unpaid interest accrued on such items and any security or collateral for such items, including recoverable deposits;

**“Administrative Agent”** means Canadian Imperial Bank of Commerce or its successor as administrative agent for the Lenders under the Credit Agreement;

**“Affected Unsecured Claim”** has the meaning set out in the Plan;

**“Agreement”** means this Agreement, including the Schedules to this Agreement, as it or they may be amended, modified, supplemented or restated from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement;

**“Analytical Services Purchased Assets”** means all the property, assets and undertaking of PASC;

**“Applicable Law”** means, with respect to any Person, property, transaction, event or other matter, any law, rule, statute, regulation, order, judgment, decree, treaty, guidelines having the force of law or other requirement having the force of law (collectively, the “Law”) relating or applicable to such Person, property, transaction, event or other matter;

**“Approval Order”** means an order of the Court in form and substance satisfactory to the Vendors, the Purchasers, the Receiver and the Required Lenders approving the transactions contemplated by this Agreement, appointing the Receiver as of the Effective Date and authorizing and directing the Vendors and the Receiver to enter into and perform this Agreement;

**“Assumed Senior Liabilities”** means all of the liabilities of a Vendor secured by a Lien which ranks in priority to the Lenders’ Security including Account Intermediary Liens and Bonding Security but for greater certainty shall not include the Unassumed Liabilities;

**“Benefit Plans”** means the benefit plans of the Vendors listed on Schedule “B”;

**“BIA”** means the *Bankruptcy and Insolvency Act* (Canada);

**“Bonding Security”** means the Bonding Security as defined in the Initial Order;

**“Books and Records”** means all books, records, files and papers of the Vendors including drawings, engineering information, computer programs (including source code), software programs, manuals and data, sales and advertising materials, sales and purchase correspondence, trade association files, research and development records, lists of present and former customers and suppliers, personnel, employment and other records, and the minute and share certificate books of the Vendors and all copies and recordings of the foregoing;

**“Business Day”** means any day other than a Saturday, Sunday or statutory holiday on which financial institutions in Toronto, Ontario or New York, New York are required or authorized by law to remain closed;

**“Canadian Dollar Equivalent”** of an amount stated in US Dollars means the Equivalent Amount thereof, expressed in Canadian Dollars on the Effective Date;

**“Canadian Dollars”** means lawful currency of Canada;

**“Choses in Action”** means all claims and choses in action of the Vendors except those included as part of the Excluded Assets;

**“CIBC”** means Canadian Imperial Bank of Commerce;

**“Contracts”** means all contracts and agreements entered into by the Vendors other than Unassumed Liabilities;

**“Court”** means the Ontario Superior Court of Justice;

**“Credit Agreement”** means the credit agreement dated as of August 11, 1997, among Philip Services Corp., as borrower in Canada, PSI, as borrower in the United States, the Lenders, CIBC, as administrative agent for the Lenders, Bankers Trust Company, as syndication agent, and CIBC and Bankers Trust Company, as co-arrangers, as amended by amending agreements dated October 31, 1997, February 19, 1998, June 24, 1998, October 20, 1998 and December 4, 1998;

**“Effective Date”** means the date on which the transactions contemplated in this Agreement will be completed which shall be the Effective Date as defined in the US Plan or such other date as may be agreed upon in writing by the Vendors and the Purchasers;

**“Employees”** means the employees of the Vendors on the Effective Date;

**“Equipment”** means all equipment, machinery, spare parts, tools, furniture, fixtures and fittings and vehicles of the Vendors;

**“Equivalent Amount”** shall mean, with respect to any two currencies, the amount obtained in one such currency when an amount in the other currency is translated into the first currency using the spot wholesale transactions buying rate of the Bank of Canada for the purchase of the applicable amount of the first currency with the other currency in effect as of 12:00 noon on the Business Day with respect to which such computation is required for the purpose of this Agreement or, in the absence of such a buying rate on such date, using such other rate as the Administrative Agent may reasonably select;

**“Excluded Assets”** means (i) any claim, rights of action, causes of action, suits and proceedings, whether in law or in equity, whether known or unknown, that any of the Vendors may hold against Deloitte & Touche, its successors or affiliates, Robert Waxman, Greg Madesker, Rik Barrese, Monopol Commodities Inc., Parametal Trading Co. LLC, MIT International LLC, Henry Feder, Fedmax Metal Trading Inc., Mark Schmidt-Fellner, Debra Waxman, any of the directors, officers, employees, agents, advisors or professionals of any of the Vendors to the extent not released under the US Plan or to the extent any release under the US Plan is revoked as provided therein, or against any insurer, any insurance broker (ii) any claim, rights of action, causes of action suits and proceeding whether in law or in equity whether known or unknown that any of the Vendors may hold against any other Person arising out of or related to the same nucleus of operative facts as any of the clauses in (i); (iii) the shares of the Corporations listed in Schedule “A” and Schedule “C” and the partnership interests of the Caligo partnership; (iv) unless otherwise agreed between the Vendors, the Required Lenders and the holders of such a claim, assets subject to security which ranks in priority to the Lenders’ Security and which secures an obligation where the deficiency would have been an Affected Unsecured Claim; (v) cash collateral held by CIBC until such time as, and only to the extent that, CIBC has agreed to release such cash collateral; (vi) one redeemable Series A preference share of the Canadian Purchaser; (vii) one redeemable Series A preference share of the Analytical Services Purchaser; (viii) any assets of any Vendor in the Province of Newfoundland and (ix) all amounts owing from one Vendor to another Vendor;

**“Foreign Subsidiary Shares”** means all shares held by the Vendors in the foreign subsidiaries listed in Schedule “D”;

**“including”** means including without limitation, and **“includes”** means includes, without limitation;

**“Initial Order”** means the order of the Court dated June 25, 1999 as amended by orders of the Court dated July 12, 1999 and August 5, 1999;

**“Intellectual Property”** means

- (i) the registered trademarks listed in Schedule “E”;

- (ii) business names, trade names, corporate names, brand names and slogans;
- (iii) any inventions, patents, patent rights, patent applications (including all reissues, divisions, continuations, continuations-in-part and extensions of any patent or patent application), industrial designs and applications for registration of industrial designs;
- (iv) any copyrights and trade-marks (whether used with wares or services and including the goodwill attaching to such trade-marks), registrations and applications for trade-marks and copyrights (and all future income from such trade-marks and copyrights);
- (v) any rights and interests in and to processes, lab journals, notebooks, data, trade secrets, designs, know-how, product formulae and information, manufacturing, engineering and other drawings and manuals, technology, blue prints, research and development reports, agency agreements, technical information, technical assistance, engineering data, design and engineering specifications, and similar materials recording or evidencing expertise or information; and
- (vi) any other intellectual and industrial property rights throughout the world;

**“Inventory”** means all inventories of stock-in-trade including materials, supplies, work-in-progress and finished goods of the Vendors (including those in possession of suppliers, customers and other third parties.);

**“Lenders”** means the “Lenders” as defined in the Credit Agreement;

**“Lenders’ Security”** means the security granted by the Vendors in favour of the Administrative Agent or the Security Agent on behalf of the Lenders;

**“Lien”** means any lien, mortgage, charge, hypothec, pledge, security interest, encumbrance or deemed trust;

**“Other Assumed Liabilities”** means (i) all trade debt of the Vendors; (ii) employee liabilities provided for in Article 3; (iii) obligations under Contracts, Personal Property Leases and Real Property Leases included in the Purchased Assets where any required consent to assignment has been obtained; (iv) the Assumed Indemnification Obligations (as defined in the Plan), but for greater certainty paragraphs (i) to (iii) shall not include the Unassumed Liabilities; and (v) any liabilities which any of the Applicants is required to pay pursuant to the Initial Order or is permitted to pay pursuant to paragraphs 12(a), (b), (c), (f) and (g) of the Initial Order which have not been paid by the Time of Closing;

**"Party"** means a party to this Agreement and any reference to a Party includes its successors and permitted assigns; **"Parties"** means every Party;

**"PASC"** means Philip Analytical Services Corporation;

**"Pension Plans"** means the pension plans of the Vendors listed in Schedule "F";

**"Permits and Licences"** means all permits, licences and certificates of approval of the Vendors;

**"Permitted Encumbrances"** means the Liens securing the Assumed Senior Liabilities and rights of way and easements registered against the Real Property prior to the Lenders' Security;

**"Person"** means an individual, a partnership, a corporation, a trust, an unincorporated organization, a government or any department or agency thereof or any other entity whatsoever and the heirs, executors, administrators or other legal representatives of an individual;

**"Personal Property Leases"** means all leases of personal property by a Vendor, other than Unassumed Liabilities;

**"Plan"** means the Amended and Restated Plan of Compromise and Arrangement dated September 24, 1999;

**"Plan Supplement"** means the plan supplement dated October 27, 1999 amending and restating the Plan;

**"PSI"** means Philip Services (Delaware), Inc.;

**"Purchased Assets"** means (i) all of the property, assets and undertaking of the Vendors, including all cash, goodwill, Inventories, Accounts Receivable, Intellectual Property, Choses in Action, Contracts, Equipment, Real Property Leases, Personal Property Leases, Real Property and Books and Records and all proceeds thereof, and (ii) the shares of the corporations listed on Schedule "G"; and (iii) cash collateral held by CIBC which CIBC has agreed to release as contemplated in paragraph (iv) of the definition of "Excluded Assets",  
but shall not include the Excluded Assets;

**"Real Property"** means all real and immovable property of the Vendors, including those listed in Schedule "J";

**"Real Property Leases"** means all leases of real property of the Vendors other than Unassumed Liabilities;

**"Receiver"** means any party which is appointed as a receiver or receiver and manager or interim receiver of the Purchased Assets by the Court pursuant to the BIA or the *Courts of Justice Act* (Ontario), in its capacity as a receiver or receiver and manager or interim receiver and not in any personal capacity;



**"Required Lenders"** has the meaning set out in the Credit Agreement;

**"Rights"** has the meaning set out in Section 4.7(1);

**"Security Agent"** means CIBC or its successor as security agent for the Lenders under the Security Agency Agreement dated March 16, 1998 between CIBC, as Administrative Agent, CIBC, as Security Agent, Philip Services Corp. and PSI et al;

**"Taxes"** means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, unemployment insurance payments and workers compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

**"Tax Provisions"** has the meaning set out in Section 2.7(4);

**"Time of Closing"** means 1:00 p.m. (Toronto time) on the Effective Date, or such other time on the Effective Date as the Vendors and the Purchasers may mutually determine;

**"Unassumed Liabilities"** means (i) liabilities to the Lenders; (ii) liabilities for Affected Unsecured Claims (including, for greater certainty, Excluded Indemnification Obligations) (as defined in the Plan) or as set out in Schedule "I"; (iii) liabilities of the Vendors for Taxes which are not secured by a Lien that ranks in priority to the Lenders' Security or which are not liabilities which any of the Vendors is required to pay pursuant to the Initial Order or is permitted to pay pursuant to paragraphs 12(a), (b), (c), (f) and (g) of the Initial Order which have not been paid by the Time of Closing; (iv) amounts owing from one Vendor to another Vendor; (v) real property leases of premises which have been abandoned prior to the Time of Closing; and (vi) claims or contingent claims against any of the Vendors which have not been disclosed to the Lenders;

**"US Dollar Equivalent"** of an amount stated in Canadian Dollars means the Equivalent Amount expressed in US Dollars on the Effective Date;

**"US Dollars"** means lawful currency of the United States of America;

**"US Plan"** means the joint plan of reorganization of Philip Services Corp., PSI, and certain of their subsidiaries as set forth in the US Plan, as filed with the United States Bankruptcy Court for the District of Delaware, as the same may be amended, modified or supplemented from time to time with the consent of the Lenders; and

**"Vesting Order"** means an order of the Court vesting title to the Purchased Assets in the Purchasers free and clear of any Lien other than Permitted Encumbrances.

**1.2 Headings**. The division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular article, section or other portion hereof and include any agreement supplemental hereto unless something in the subject matter or context is inconsistent therewith, references herein to articles and sections are to articles and sections of this Agreement.

**1.3 Number, Gender and Persons**. In this Agreement, words importing the singular number only shall include the plural and vice versa, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities of any kind whatsoever.

**1.4 Entire Agreement**. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as herein provided.

**1.5 Time of Essence**. Time shall be of the essence of this Agreement.

**1.6 Applicable Law**. This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

**1.7 Severability**. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect any other provisions of this Agreement which are hereby declared to be separate, severable and distinct.

**1.8 Amendments and Waivers**. No amendment or waiver of any provision of this Agreement shall be binding on any Party unless consented to in writing by such Party. No waiver of any provisions of this Agreement shall constitute a waiver of any other provision of this Agreement nor shall any waiver constitute a continuing waiver unless otherwise provided.

**1.9 Schedules**. The following Schedules are attached to and form part of this Agreement:

- Schedule "A" - Vendors
- Schedule "B" - Benefit Plans
- Schedule "C" - Excluded Assets - Shares of Corporations
- Schedule "D" - Foreign Subsidiary Shares
- Schedule "E" - Registered Trademarks

- Schedule "F" - Pension Plans
- Schedule "G" - Shares of Corporations Being Purchased
- Schedule "H" - Real Property
- Schedule "I" - Affected Unsecured Claims

## **ARTICLE 2**

### **PURCHASE AND SALE**

**2.1 Assets to be Purchased and Sold.** Subject to the terms and conditions hereof, and by way of Vesting Order, the Vendors hereby agree to sell, assign and transfer to the Purchasers at the Time of Closing all of the right, title and interest of the Vendors, if any, in and to the Purchased Assets as follows:

- (1) **Canadian Purchaser** - all Purchased Assets except the Analytical Services Purchased Assets and the Foreign Subsidiary Shares.
- (2) **Analytical Services Purchaser** - all Analytical Services Purchased Assets.
- (3) **US Purchaser** - all Foreign Subsidiary Shares.

**2.2 Purchase Price.** The purchase price payable to the Vendors shall be an amount equal to US Dollars \$132 million, which the Parties agree is the enterprise fair market value of the business (the "**Purchase Price**").

**2.3 Allocation of Purchase Price.** The Purchase Price payable by the Purchasers shall be allocated among the Purchased Assets by the Purchasers, acting reasonably, based on the fair market value of the Purchased Assets.

**2.4 Payment of Purchase Price.** The Purchase Price shall be paid by the Purchasers to the Vendors as follows:

- (1) **by the Canadian Purchaser**
  - (a) as to an amount equal to the US Dollar Equivalent of the Assumed Senior Liabilities of the Vendors, other than PASC, by the assumption of the Assumed Senior Liabilities of the Vendors other than the Assumed Senior Liabilities of PASC; and
  - (b) as to the balance of the purchase price allocable to the Purchased Assets, other than the Analytical Services Purchased Assets and the Foreign Subsidiary Shares, by the issuance to each Vendor or as the Receiver may direct of one common share of the Canadian Purchaser and that number of redeemable, retractable, voting preference shares of a separate series having an aggregate redemption and retraction price equal to the Canadian Dollar equivalent of an amount equal to the fair market value of such Purchased Assets computed in US Dollars being purchased from such

Vendor, less the aggregate of (i) the US Dollar Equivalent of the Assumed Senior Liabilities and the Other Assumed Liabilities of such Vendor; and (ii) the US Dollar Equivalent of \$1.00 Canadian Dollar for each Vendor.

(2) **by the Analytical Services Purchaser**

- (a) as to an amount equal to the US Dollar Equivalent of the Assumed Senior Liabilities of PASC, by the assumption of the Assumed Senior Liabilities of PASC; and
- (b) as to the balance of the purchase price allocable to the Analytical Services Purchased Assets, by the issuance to PASC or as the Receiver may direct of 100,000 common shares of the Analytical Services Purchaser having an aggregate issue price equal to the Canadian Dollar Equivalent of an amount equal to the fair market value of the Analytical Services Purchased Assets computed in US Dollars, less the aggregate of the US Dollar Equivalent of the Assumed Senior Liabilities and Other Assumed Liabilities of PASC; and

(3) **U.S. Purchaser** - As to an amount equal to the purchase price allocable to the Foreign Subsidiary Shares by the issuance to each such Vendor or as the Receiver may direct of one common share of the U.S. Purchaser and that number of redeemable, retractable, voting preference shares of a separate series having an aggregate redemption and retraction price equal to the fair market value of the Foreign Subsidiary Shares being purchased from such Vendor computed in U.S. Dollars minus \$1.00 US Dollar for each Vendor.

**2.5 Other Assumed Liabilities** From and after the Effective Date, the applicable Purchasers will assume, satisfy, pay and perform the Assumed Senior Liabilities and the Other Assumed Liabilities.

**2.6 Taxes.**

(1) Subject to paragraph (2), the Purchasers will be liable for and shall pay all taxes, duties and fees whatsoever which are required to be paid by a Purchaser in connection with the transaction contemplated herein, together with all duties, registration fees or other charges properly payable by the Purchasers upon or in connection with the conveyance or transfer of the Purchased Assets, including, without limitation, all taxes payable pursuant to the *Excise Tax Act* (Canada), and *An act respecting the Quebec sales tax and amending various fiscal legislation*, Ontario retail sales tax and any other tax, duty, levy or fee payable in any other jurisdiction.

(2) The Vendors and the Purchasers shall not be liable for and shall not be required to pay any taxes, duties or fees either of them is exempted from paying under the US Plan.

## 2.7 Elections

(1) The Vendors and the Canadian Purchaser and the Analytical Services Purchaser will, on or before the Time of Closing, jointly execute an election, in prescribed form and containing the prescribed information, to have subsection 167(1) of the *Excise Tax Act* (Canada) apply to the sale and purchase of the Purchased Assets hereunder so that no tax is payable in respect of such sale and purchase under Part IX of the *Excise Tax Act* (Canada). The Canadian Purchaser and the Analytical Services Purchaser will file such election with the Minister of National Revenue within the time prescribed by the *Excise Tax Act* (Canada).

(2) The Vendors and the Canadian Purchaser and the Analytical Services Purchaser will if necessary, on or before the Time of Closing, jointly execute an election, in prescribed form and containing the prescribed information, to have section 75 of *an Act respecting the Quebec sales tax and amending various fiscal legislation* apply to the sale and purchase of the assets hereunder so that no tax is payable in respect of such sale and purchase under section 75 of *an Act respecting the Quebec sales tax and amending various fiscal legislation*. The Canadian Purchaser and the Analytical Services Purchaser will file such election with the Minister of Finance (Quebec) within the time prescribed by such act.

(3) The Vendors and the Canadian Purchaser and the Analytical Services Purchaser will jointly complete and execute an election under section 22 of the *Income Tax Act* (Canada) and under any applicable, analogous provincial legislative provision as to the sale of Accounts Receivable to the Canadian Purchaser and the Analytical Services Purchaser hereunder as soon as practicable following the Effective Date but in any event no later than 30 days prior to the earliest time that either party is required to file its tax return under the *Income Tax Act* (Canada) or provincial taxing legislation for the taxation year in which the closing of the transactions contemplated in this Agreement occurs. Such elections will designate therein the applicable portion of the Purchase Price as the consideration paid by the Canadian Purchaser and the Analytical Services Purchaser therefor in accordance with the allocation made in Section 2.4 and the Vendors and the Canadian Purchaser and the Analytical Services Purchaser will each file such election with Revenue Canada within the time prescribed in the *Income Tax Act* (Canada).

(4) Each Vendor and the Canadian Purchaser and the Analytical Services Purchaser shall, if so requested by the applicable Purchaser, file in mutually agreeable form an election (the "**20(24) Election**") under subsection 20(24) of the *Income Tax Act* (Canada) and any analogous legislation of any province of Canada (the "**Tax Provisions**") in the form and manner and within the time prescribed by the Tax Provisions, with respect to the assumption by the applicable Purchaser of such portion of the Assumed Liabilities as may be specified by the applicable Purchaser in its sole discretion. Notwithstanding the above, (i) the applicable Purchaser shall have the sole responsibility for preparing and filing in a timely fashion the 20(24) Election, and for paying any penalties or interest which may be payable in connection with the 20(24) Election; and (ii) each Vendor's sole obligation under this section shall be to execute any 20(24) Election prepared by the applicable Purchaser.

### **ARTICLE 3**

#### **EMPLOYEES**

**3.1 Offers to Employees.** On or before the Effective Date, subject to the closing of the transactions set forth herein, the applicable Purchaser shall offer employment to the Employees to be employed by such Purchaser at the same rate of wages and benefits currently received by each of the Employees and upon other terms and conditions the same as those of his or her current employment with the applicable Vendor, including fixed termination dates included in written agreements with the Vendors, which employment shall commence as at the Effective Date. The Purchaser making the offer of employment shall recognize the seniority and years of service with the applicable Vendor of such Employee.

**3.2 Remuneration, Benefits and Deductions.** Until the Effective Date, the Vendors shall be responsible for all wages, statutory deductions, remittances, assessments, bonuses, vacation pay, sick leave, severance pay and other remuneration, benefits and deductions for all of the Employees. Thereafter, the applicable Purchaser shall be responsible for all such remuneration, benefits and deductions of the Employees who accept the offer of employment with such Purchaser. On the Effective Date, the applicable Purchaser shall assume the Vendors' responsibility for all wages, statutory deductions, remittances, assessments, bonuses, vacation pay, sick leave, severance pay and other remuneration, benefits and deductions accrued prior to Closing in respect of all Employees employed by such Purchaser. The Purchaser consents to the payment by the Vendors at the Time of Closing of outstanding severance pay obligations to former employees of the Vendors (other than for severance pay claims which are Affected Unsecured Claims or Class 7 claims under the US Plan) to the extent provided for in the Vendors' severance pay policy as at June 25, 1999.

**3.3 Assumption of Rights and Obligations.** From and after the Effective Date, the applicable Purchaser shall assume all of the rights and obligations of the Vendors:

- (a) under any collective agreements with trade unions or associations that represent Employees which have accepted such Purchaser's offer of employment; and
- (b) under applicable labour relations legislation in respect of those Employees represented by a trade union or association certified under such legislation to bargain exclusively on their behalf for a collective agreement.

**3.4 Pension and Benefit Plans.** Effective as of the Effective Date, the applicable Purchasers shall assume the obligations of the Vendors under the Benefit Plans and the Pension Plans and all of the Vendors' obligations, liabilities and responsibilities as sponsor and administrator of the Pension Plans and in respect of any funding medium related thereto, provided that any required approvals of trade unions or associations that represent Employees have been obtained. As soon as practicable after the Effective Date, and in any event within 60 days following the Effective Date, the Purchasers shall take, or shall have taken, all such actions as may be required under the terms of the Pension Plans, any funding medium related thereto and Applicable Law, including, without limitation, the completion of any regulatory filings, in order to become the sponsor and administrator of the Pension Plans. The Vendors shall cooperate with the Purchasers and

provide the Purchasers with whatever assistance they may reasonably require in order to give effect to their obligations pursuant to this Section 3.4. Prior to and following the Effective Date, the Vendors shall use their best efforts to provide the Purchasers with such books, records and other relevant data within their control or access relating to the Pension Plans or the Benefit Plans as the Purchasers shall reasonably request.

#### **ARTICLE 4**

#### **REPRESENTATIONS, WARRANTIES AND COVENANTS**

**4.1 Vendors' Representations and Warranties.** The Vendors represent and warrant to the Purchasers as of the Time of Closing, and acknowledge and confirm that the Purchasers will be relying on such representations and warranties in connection with the purchase of the Purchased Assets, that:

- (a) each Vendor is a corporation duly incorporated, amalgamated or continued, as applicable, and organized and subsisting under its jurisdiction of incorporation, amalgamation or continuance, as applicable;
- (b) subject to the approval of the Court, each Vendor has good and sufficient power, authority and right to enter into and deliver this Agreement and to complete the transactions to be completed by the Vendors contemplated hereunder;
- (c) except as disclosed in Schedule "A" hereto, each Vendor is registered under Part IX of the *Excise Tax Act* (Canada) with its registration number being set out in Schedule A; and
- (d) each Vendor is not, and as at the Time of Closing, will not be, a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada).

**4.2 Receiver's Representations and Warranties.** The Receiver will represent and warrant to the Purchasers as of the Time of Closing, and will acknowledge and confirm that the Purchasers will be relying on such representations and warranties in connection with the purchase of the Purchased Assets, that:

- (a) the Receiver has been appointed as receiver and manager or interim receiver (as the case may be) of the Purchased Assets with, upon the granting of the Approval Order and Vesting Order, the full right, power and authority to enter into this Agreement, perform its obligations hereunder and convey all the right, title and interest of the Vendors and Receiver in and to the Purchased Assets to the Purchasers;
- (b) the Receiver is not, and as at the Time of Closing, the Receiver will not be, a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada); and

(c) the Receiver has not done any act to encumber the Purchased Assets.

#### **4.3 Survival of Representations and Warranties.**

(1) The representations, warranties and covenants set forth in this Agreement will merge on Closing.

(2) The Purchasers acknowledges that, if the Receiver becomes a party to this Agreement, the Receiver will be acting solely in its capacity as receiver and manager of the property, assets and undertaking of the Vendors and any liability of the Receiver to the Purchasers is limited to the amount of the Purchase Price and the Receiver shall have no personal liability in respect of this Agreement or the transactions contemplated hereby.

**4.4 Purchasers' Representations and Warranties.** The Purchasers represent and warrant to the Vendors, and hereby acknowledge and confirm that the Vendors are relying on such representations and warranties in connection with the sale of the Purchased Assets, that:

- (a) each Purchaser is a corporation duly incorporated, organized and subsisting under its jurisdiction of incorporation; and
- (b) each Purchaser has good and sufficient power, authority and right to enter into and deliver this Agreement and to complete the transactions to be completed by the Purchaser contemplated hereunder and the Purchaser has taken all necessary corporate action to authorize the entering into and performance of this Agreement.

#### **4.5 Survival of Purchaser's Representations and Warranties .**

The representations, warranties and covenants of the Purchasers set forth in this Agreement will merge on Closing.

**4.6 "As Is, Where Is"** The Purchasers acknowledge that the Vendors are selling and the Purchasers are purchasing the Purchased Assets on an "as is, where is" basis as they shall exist on the Effective Date. The Purchasers further acknowledge that they have entered into this Agreement on the basis that none of the Vendors or the Receiver has guaranteed or will guarantee title to the Purchased Assets. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Vendors to sell or assign same save and except as expressly provided for in this Agreement.

#### **4.7 Third Party Consents.**

(1) Nothing in this Agreement shall constitute an assignment or attempted assignment of any Contracts or Personal Property Leases of the Vendors which are not assignable without the consent of another person if such consent has not been obtained (the "**Rights**"). The Vendors shall use their best efforts both prior to and after the Effective Date to obtain the consent of any third party to the Rights where such consent is required. To the extent that all such required consents are not obtained by the Time of Closing the Rights shall be held in trust by the Vendors



for the applicable Purchaser. All benefits to be derived thereunder shall be for the account of the applicable Purchaser and the Vendors shall, at the expense of the applicable Purchaser, take or cause to be taken all such action in its name or otherwise as the applicable Purchaser may reasonably require so as to provide to the applicable Purchaser the benefits of such Rights. The Vendors shall promptly pay over to the applicable Purchaser all monies collected by or paid to the Vendors in respect of such Rights. Effective from and after the Time of Closing, the Vendors authorize the applicable Purchaser, at the Purchaser's expense, to perform all of the obligations in respect of the Rights, and the applicable Purchaser covenants and agrees to perform all of such obligations. Any such Rights shall be assigned to the applicable Purchaser as soon as the required consent to assignment has been obtained. Nothing contained herein shall be construed to negate or diminish, as between the Vendors and the applicable Purchaser, the Purchaser's covenants and obligations to perform and fulfil all of the Vendors' obligations and duties under the Rights from and after the Time of Closing.

(2) Nothing in this Agreement shall constitute an assignment or attempted assignment of any Real Property Lease of the Vendors which is not assignable without the consent of another person if such consent has not been obtained ( the "**Lease Rights**" ). The Vendors shall use their best efforts both prior to and after the Effective Date to obtain the consent of any third party to the Lease Rights where such consent is required. To the extent that all such required consents are not obtained by the Time of Closing, the applicable Purchaser shall enter into an occupancy agreement with the Receiver in respect of the premises leased pursuant to the Lease Rights on terms and conditions reasonably acceptable to the Receiver. Any such Lease Rights shall be assigned to the applicable Purchaser as soon as the required consent to assignment has been obtained.

(3) Notwithstanding any other provision of this Agreement: (a) the shares of Phencorp Reinsurance Company Inc. and Philip International Development Inc. shall not be transferred to the applicable Purchaser until all regulatory consents to the transfer of the shares of this corporation required under applicable law have been obtained; and (b) the shares of Fercyco & Partners, Fercyco Incorporated, Fers et Meteaux Recyclees Ltee., K-Scrap Resources Inc. and R&R Trucking Inc. shall not be transferred to the applicable Purchaser until all required consents of other shareholders of these corporations have been obtained. Any such shares shall be transferred to the applicable Purchaser as soon as the required consent to transfer has been obtained.

The Vendors shall use their best efforts both prior to and after the Effective Date to obtain the regulatory and third party consents referred to in this paragraph.

**4.8 Planning Act.** This Agreement shall be effective to create an interest in the Real Property only if the subdivision control provisions of the *Planning Act* (Ontario) are complied with. The Vendors shall forthwith apply for and diligently pursue any required consent under the *Planning Act* (Ontario).

## **ARTICLE 5**

### **CONDITIONS**

#### **5.1 Conditions for the Benefit of the Purchasers.**

(1) The sale by the Vendors and the purchase by the Purchasers of the Purchased Assets are subject to the following conditions, which are for the exclusive benefit of the Purchasers and which are to be performed or complied with at or prior to the Time of Closing:

- (a) the representations and warranties of the Vendors or Receiver, as applicable, set forth in Section 4.1 or 4.2, as applicable, will be true and correct at the Time of Closing with the same force and effect as if made at and as of such time;
- (b) the Vendors will have performed or complied with all of the terms, covenants and conditions of this Agreement to be performed or complied with by them at or prior to the Time of Closing;
- (c) the Approval Order and the Vesting Order shall have been made, and the operation and effect of the Approval Order and the Vesting Order shall not have been stayed, reversed or amended and the Receiver shall have executed and delivered to the Purchasers an acknowledgement that it is bound by this Agreement;
- (d) either (i) the US Bankruptcy Court shall have issued a final order under the US Bankruptcy Code confirming the US Plan and all conditions to the effectiveness of the US Plan shall have been satisfied other than the condition that the Alternate Canadian Transactions (as defined in the US Plan) have become effective, or (ii) if the Canadian Plan Condition (as defined in the US Plan) has been waived, the US Plan has become effective;
- (e) all amounts required to be paid under paragraph 21 of the Initial Order will have been paid; and
- (f) agreements shall be in place evidencing sufficient bonding to meet the projected bonding requirements of the Purchasers and their subsidiaries and for the provisions of bank account services for the Purchasers and their subsidiaries.

(2) In case any term or covenant of the Vendors or condition to be performed or complied with for the benefit of the Purchasers at or prior to the Time of Closing has not been performed or complied with at or prior to the Time of Closing, the Purchasers, without limiting any other right that the Purchasers have, may at their option with the consent of the Required Lenders, either:

- (a) rescind this Agreement by notice to the Vendors, and in such event the Purchasers will be released from all obligations hereunder; or

- (b) waive compliance in writing with any such terms, covenant or condition in whole or in part on such terms as may be agreed upon without prejudice to any of its rights of rescission in the event of non-performance of any other term, covenant or condition in whole or in part, and, if the Purchasers rescind this Agreement pursuant to Section 5.1, the Vendors will also be released from all obligations hereunder.

## **5.2 Conditions for the Benefit of the Vendors.**

(1) The sale by the Vendors and the purchase by the Purchasers of the Purchased Assets are subject to the following conditions, which are the exclusive benefit of the Vendors and which are to be performed or complied with at or prior to the Time of Closing:

- (a) the representations and warranties of the Purchasers set forth in Section 4.4 will be true and correct at the Time of Closing with the same force and effect as if made at and as of such time;
- (b) the Purchasers will have performed or complied with all the terms, covenants and conditions of this Agreement to be performed or complied with by the Purchasers at or prior to the Time of Closing;
- (c) the Approval Order and the Vesting Order shall have been made, and the operation and effect of the Approval Order and the Vesting Order shall not have been stayed, reversed or amended;
- (d) either (i) the US Bankruptcy Court shall have issued a final order under the US Bankruptcy Code confirming the US Plan and all conditions to the effectiveness of the US Plan shall have been satisfied other than the condition that the Alternate Canadian Transactions (as defined in the US Plan) have become effective, or (ii) if the Canadian Plan Condition (as defined in the US Plan) has been waived, the US Plan has become effective;
- (e) the Purchasers and each of the subsidiaries whose shares are included in the Purchased Assets shall have executed and delivered all documents which are required from subsidiaries of PSI under the US Plan or under any agreement to be entered into pursuant thereto, including the New Guarantees (as defined in the US Plan) and related security documents and the Exit Facility (as defined in the US Plan); and
- (f) each of the Canadian Purchaser and the Analytical Services Purchaser shall be registered under Part IX of the *Excise Tax Act*.

(2) In the case any term or covenant of the Purchasers or condition to be performed or complied with for the benefit of the Vendor at or prior to the Time of Closing has not been performed or complied with at or prior to the Time of Closing, the Vendor, without limiting any other right that the Vendor has, may at its option, either:

- (a) with leave of the Court, rescind this Agreement by notice to the Purchaser, and in such event the Vendor will be released from all obligations hereunder; or
- (b) waive compliance in writing with any such term, covenant or condition in whole or in part on such terms as may be agreed upon, and in the case of the conditions in Sections 5.2(d) and (e) with the consent of the Lenders, without prejudice to any of their rights of rescission in the event of non-performance of any other term, covenant or condition in whole or in part, and, if the Vendors rescind this Agreement pursuant to Section 5.2, the Purchasers will also be released from all obligations hereunder.

**5.3 Time of Closing.** If the transactions contemplated hereby are not completed by the Time of Closing, this Agreement shall be null and void and each of the Purchasers and the Vendors shall be released from their obligations hereunder and shall have no further liability to each other.

## **ARTICLE 6**

### **CLOSING ARRANGEMENTS**

**6.1 Closing.** The sale and purchase of the Purchased Assets will be completed at the Time of Closing at the offices of Stikeman, Elliott, Toronto, or such other place as the Vendors and the Purchasers may agree. At the Time of Closing, the Vendors will deliver to the Purchasers such bills of sale, assignments, conveyances, documents and other instruments as may be reasonably required by the Purchasers to complete the transactions provided for in this Agreement.

## **ARTICLE 7**

### **GENERAL**

**7.1 Further Assurances.** Each of the Vendors and the Purchasers will from time to time execute and deliver all such further documents and instruments and do all acts and things as any other party may, either before or after the Effective Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

**7.2 Time of the Essence.** Time is of the essence of this Agreement.

**7.3 Cost.** Each of the Parties hereto will pay their respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

**7.4 Public Announcements.** Subject to Applicable Law, no press release, public announcement or other similar notice concerning the sale and purchase of the Purchased Assets may be made to the general public by either of the Vendors or the Purchasers without the prior consent and approval of the Vendors and the Purchasers. The Vendors will consult with the Purchasers with respect to the text of any press release required by Applicable Law.

**7.5 Notices.** Any demand, notice or other communication to be given in connection with this Agreement will be given in writing and will be given by personal delivery by registered mail or by electronic means of communication addressed to the recipient as follows:

(a) if to the Vendors:

c/o: Philip Services Corp.  
100 King Street West  
Hamilton, Ontario  
L8N 4J6

**Attention: Colin Soule**

Facsimile: (905) 521-9160

and to:

Stikeman, Elliott  
199 Bay Street  
Suite 5300  
Toronto, Ontario  
M5L 1B9

**Attention: Peter Hamilton**

Facsimile: (416) 947-0866

and to:

Blake, Cassels & Graydon  
Box 25, Commerce Court West  
Toronto, Ontario  
M5L 1A9

**Attention: Susan Grundy**

Facsimile: (416) 863-2653

(b) if to the Purchasers:

c/o: Philip Services (Delaware), Inc.  
100 King Street West  
Hamilton, Ontario  
L8N 4J6

**Attention: Colin Soule**

Facsimile: (905) 521-9160

with a copy to:

Stikeman, Elliott  
Commerce Court West  
Suite 5300  
Toronto, Ontario  
M5L 1B9

**Attention: Peter Hamilton**

Facsimile: (416) 947-0866

(c) if to the Receiver:

Ernst & Young Inc.  
Ernst & Young Tower  
222 Bay Street, 22nd Floor  
P.O. Box 251, Toronto Dominion Centre  
Toronto, Ontario  
M5K 1J7

**Attention: Murray McDonald**

Facsimile: (416) 943-3300

with a copy to:

Tory Tory DesLauriers & Binnington  
Barristers & Solicitors  
Suite 3000, Aetna Tower  
79 Wellington Street West  
Toronto, Ontario  
M5K 1N2

**Attention: Mario Forte**

Facsimile: (416) 865-7380

or to such other address, individual or electronic communication number as may be designated by notice given by a party to the others. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third Business Day following the deposit thereof in the mail and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day. If the party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system that might affect the delivery of mail, any such demand, notice or other communication may not be mailed but must be given by personal delivery or by electronic communication.

**7.6 Successors and Assigns** This Agreement shall enure to the benefit of and shall be binding on and enforceable by the Parties and, where the context so permits, their respective successors and permitted assigns. Except as explicitly provided herein, neither the Vendors nor the Purchasers may assign any of their respective rights or obligations hereunder without the prior written consent of the other Parties. The Purchasers acknowledge that following the appointment of a Receiver, they will continue to be bound by this Agreement and that such Receiver shall be entitled to the benefit and subject to the obligations of this Agreement in the place and stead of the Vendors.

**7.7 Capacity of Vendors** The Purchasers acknowledge that any Receiver which executes or assumes this Agreement does so solely in its capacity as Receiver and not in its personal capacity.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**VENDORS:**

**PHILIP SERVICES CORP.**

By: \_\_\_\_\_

By: \_\_\_\_\_

**PHILIP ENTERPRISES INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

**1195613 ONTARIO INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

**1233793 ONTARIO INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

**912613 ONTARIO LTD.**

By: \_\_\_\_\_

By: \_\_\_\_\_

**ALLWASTE OF CANADA LTD.**

By: \_\_\_\_\_

By: \_\_\_\_\_

**CALIGO RECLAMATION LTD.**

By: \_\_\_\_\_

By: \_\_\_\_\_



**CALIGO (PARTNERSHIP)**

By: \_\_\_\_\_

By: \_\_\_\_\_

**PHILIP ENVIRONMENTAL (ATLANTIC)  
LIMITED**

By: \_\_\_\_\_

By: \_\_\_\_\_

**PHILIP ENVIRONMENTAL SERVICES  
LIMITED**

By: \_\_\_\_\_

By: \_\_\_\_\_

**PHILIP ANALYTICAL SERVICES  
CORPORATION**

By: \_\_\_\_\_

By: \_\_\_\_\_

**PHILIP ENVIRONMENTAL (ELMIRA)  
INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

**DELSAN DEMOLITION LIMITED**

By: \_\_\_\_\_

By: \_\_\_\_\_

**2766906 CANADA INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

**PURCHASERS:**

**1381648 ONTARIO INC.**

By: \_\_\_\_\_

**1381649 ONTARIO INC.**

By: \_\_\_\_\_

**PHILIP SERVICES INTERNATIONAL  
INC.**

By: \_\_\_\_\_

**SCHEDULE "A"****Vendors**

<b><u>Vendor</u></b>	<b><u>Jurisdiction</u></b>	<b><u>GST Number</u></b>
Philip Services Corp.	Ontario	122987175RT0001
Philip Enterprises Inc.	Ontario	872544390RT0001
1195613 Ontario Inc.	Ontario	894590470RT0001
1233793 Ontario Inc.	Ontario	887996130RT0001
912613 Ontario Ltd.	Ontario	Closed per Revenue Canada
Allwaste of Canada Ltd.	Ontario	895417079RT0001
Caligo Reclamation Ltd.	Ontario	892205477RT0001
Caligo (Partnership)	Ontario	119448082RT0001
Philip Environmental (Atlantic) Limited	Nova Scotia	898-396-577
Philip Environmental Services Limited	Ontario	899742878RT0001
Philip Analytical Services Corporation	Ontario	886299288RT0001
Philip Environmental (Elmira) Inc.	Ontario	134522507RT0001
Delsan Demolition Limited	Ontario	CLOSED
2766906 Canada Inc.	Canada	886882034RT0001

## **SCHEDULE "B"**

### **Benefit Plans**

1. The Philip Services Corp. Group Benefit Plan consisting of:
  - (a) Life Insurance (including dependent life insurance and optional life insurance), and Long Term Disability Insurance provided under Metropolitan Life Insurance Company of Canada Policy No. 62266-38 (in the process of being replaced by Great-West Life Policy No. 325341);
  - (b) Accidental Death and Dismemberment Insurance provided under Hartford Fire Insurance Company Policy No. 6510-38; and
  - (c) Extended Health Care Benefits, Dental Benefits, Vision Benefits and Travel Benefits provided under London Life Insurance Company Policy No. 71775-38 (in the process of being replaced by Great-West Life Policy Nos. 55591 and 325341).
2. Salary Continuance Benefits funded by Philip Services Corp. and described in Approved Company Policy and Procedure No. S-001.
3. Philip Services Corp. Educational Assistance Program.

## **SCHEDULE "C"**

### **Excluded Assets**

#### **Shares of Corporations**

2842-7979 Quebec Inc.  
Sablir Inc.  
Philip Gore Landfill Inc.  
721646 Alberta Inc.  
2884216 Canada Inc.  
1125443 Ontario Inc.  
Société d'Élimination Environnementale Selenco Inc.  
Philip Plasma Metals Inc.  
PSC/IML Acquisition Corp.  
Nortru, Ltd.  
Allies Staffing Ltd.  
Servtech Canada, Inc.  
ST Delta Canada, Inc.  
Services Environnementaux Delsan Cleveland Inc.  
York Thomas Decommissioning Inc.  
Cecatur Holdings  
Philip Services (Delaware), Inc. (shares cancelled)  
Phencorp International Finance Inc.  
Philip Chembrex Environmental (Mercosur) Inc.  
Phencorp International BV

**SCHEDULE "D"**

**Foreign Subsidiary Shares**

<b><u>Company</u></b>	<b><u>Jurisdiction</u></b>	<b><u>Vendor/Shareholder</u></b>
Philip International Development Inc.	Barbados	Philip Services Corp.
Phencorp Reinsurance Company Inc.	Barbados	Philip Services Corp.
Arc Dust Processing (Barbados) Limited	Barbados	Philip Services Corp.
Luntz Corporation	Delaware	Philip Services Corp.
Philip Industries (Europe) Limited	Europe	Philip Services Corp.
Philip Industrial Services (Europe) Limited	Europe	Philip Services Corp.
PSC (Europe) Limited	Europe	Philip Services Corp.
Philip Services (Europe) Limited	Europe	Philip Enterprises Inc.

**SCHEDULE "E"****Registered Trademarks****PHILIP ENTERPRISES INC.**

<b>Country</b>	<b>Trade-mark</b>	<b>Registration No.</b>
Canada	ECOSAFE	TMA-338,520

**PHILIP SERVICES CORP.**

<b>Country</b>	<b>Trade-mark</b>	<b>Registration No.</b>
Canada	PHILIP & DESIGN	TMA-475,422
Canada	PHILIP ENVIRONMENTAL	TMA-431,169
Canada	PHILIP SERVICES	TMA-514,919
Canada	PHILIP SERVICES CORP.	TMA-501,028
Canada	PSC	TMA-501,181
United States	PHILIP ENVIRONMENTAL	2,102,936
United States	PHILIP ENVIRONMENTAL	2,059,355
United States	PHILIP SERVICES	Pending
United States	PSC	Pending
United States	PSC PHILIP SERVICES CORP.	Pending

## **SCHEDULE "F"**

1. Pension Plan for Philip Services Corp., registered with Revenue Canada, Taxation and the Financial Services Commission of Ontario under Registration No. 0697110 and maintained under Flexible Investment Defined Contribution Pension Plan Investment Contract No. GE 11286-RP issued by London Life Insurance Company.
2. Flexible Investment Retirement Savings Plan for Employees of Philip Services Corp., maintained under Flexible Investment Retirement Savings Plan Investment Contract No. GE 11286-RS issued by London Life Insurance Company.
3. Philip Services Corp. Pension Plan for Intermetco Senior Management Employees, registered with Revenue Canada, Taxation and the Financial Services Commission of Ontario under Registration No. 0687608.
4. Intermetco Limited Retirement Pension Plan for Members of United Steelworkers of America Local 6098, registered with Revenue Canada, Taxation and the Financial Services Commission of Ontario under Registration No. 0347047.
5. Intermetco Limited Salaried Employees' Pension Plan, registered with Revenue Canada, Taxation and the Financial Services Commission of Ontario under Registration No. 0347021.
6. The Employees' Pension Plan of Philip Enterprises Inc. – Resource Recovery Group, registered with Revenue Canada, Taxation and the Financial Services Commission of Ontario under Registration No. 0377150.
7. The Hourly Employees' Pension Plan of I.W.&S. Ferrous Limited, registered with Revenue Canada, Taxation and the Financial Services Commission of Ontario under Registration No. 0474932.
8. The I.W.&S. Ferrous Limited Pension Plan for Salaried Employees, registered with Revenue Canada, Taxation and the Financial Services Commission of Ontario under Registration No. 0481937.



**SCHEDULE "G"**

**Shares of Corporations Being Purchased**

800151 Ontario Inc.  
842578 Ontario Limited  
Fercyco & Partners  
Fercyco Incorporated  
Fers et Meteaux Recycles Ltée  
K-Scrap Resources  
R & R Trucking Inc.  
Philip Investment Corp.  
Recyclage d'Aluminium Quebec Inc.  
1242204 Ontario Inc. (Braemar Acres)  
Delsan A.I.M. Environmental Services Inc./Les Services Environnementaux Delsan-A.I.M. Inc.  
Arc Dust Processing (Barbados) Limited  
Luntz Corporation  
Phencorp Reinsurance Company Inc.  
Philip Industries (Europe) Limited  
Philip Industrial Services (Europe) Limited  
Philip International Development Inc.  
PSC (Europe) Limited  
Philip Services (Europe) Limited

**SCHEDULE "H"****Real Property****PHILIP ENTERPRISES INC.**

<b>Item</b>	<b>Leased or Owned</b>	<b>Address (Canada)</b>
<b>A.</b>	Owned	519 Parkdale Avenue, Hamilton, Ontario
<b>B.</b>	Owned	519 Parkdale Avenue, Hamilton, Ontario
<b>C.</b>	Owned	799-800 Parkdale Avenue North, Hamilton, Ontario
<b>D.</b>	Owned	52 Imperial Street, Hamilton, Ontario
<b>E.</b>	Owned	799-800 Parkdale Avenue North, Hamilton, Ontario
<b>F.</b>	Owned	Snow Valley Road, R.R. #3, Barrie, Ontario
<b>G.</b>	Owned	670 Strathearne Avenue North, Hamilton, Ontario
<b>H.</b>	Owned	1683 Brampton Street East, Hamilton, Ontario
<b>I.</b>	Owned	4505 Fourth Street, Windsor, Ontario
<b>J.</b>	Owned	Green Mountain Road, Stoney Creek, Ontario
<b>K.</b>	Owned	425 Parkdale Avenue North/1640 Brampton Street, Hamilton, Ontario [or 424 Parkdale Ave. N.]
<b>L.</b>	Owned	112 Adams Blvd., Brantford, Ontario
<b>M.</b>	Owned	1731 Petit Road, Fort Erie, Ontario
<b>N.</b>	Owned	Industrial Road, Smithville, Ontario

Item	Leased or Owned	Address (Canada)
O.	Owned (Registered owner is 842578 Ontario Limited)	29 Industrial Drive, R.R. #2, Caledonia, Ontario (together with 842578 Ontario Limited, item (d))
P.	Owned	555 Parkdale Avenue & 28 Burland Crescent, Hamilton, Ontario
Q.	Owned	54 Burland Avenue, Hamilton, Ontario [42 Burland Cres.] (same as P above)
R.	Owned	1720-1740 Brampton Street East, Hamilton, Ontario (same as P and Q above)
S.	Owned	33 Mud Street West, Stoney Creek, Ontario
T.	Owned	49 Mud Street West & 53 Mud Street West, Stoney Creek, Ontario
U.	Owned	37 Mud Street West, Stoney Creek, Ontario
V.	Owned	413 Hwy 20 South, Stoney Creek, Ontario
W.	Owned	341 First Road West, Stoney Creek, Ontario
X.	Owned	175 Stuart Street, Hamilton, Ontario
Y.	Owned	417-421 Sherman Avenue, Hamilton, Ontario
Z.	Owned	17 Mud Street West, Stoney Creek, Ontario
AA.	Owned	53 Mud Street West, Stoney Creek, Ontario (see T above)
BB.	Owned	3 Green Mountain Road, Stoney Creek, Ontario
CC.	Owned	430 First Road West, Stoney Creek, Ontario

Item	Leased or Owned	Address (Canada)
DD.	Owned	42 Burland Crescent, Hamilton, Ontario (same as P, Q and R above)
EE.	Owned	171 Brant Street, Hamilton, Ontario
FF.	Owned (Registered owner is 842578 Ontario Limited)	55 Vulcan Street, Rexdale, Ontario
GG.	Owned (Registered owner is 842578 Ontario Limited)	31 Industrial Drive, Caledonia, Ontario (see O above)
HH.	Owned (Registered owner is 842578 Ontario Limited)	297-363 Hwy #20 (Taro East Quarry), Stoney Creek, Ontario

**CALIGO RECLAMATION LTD.**

Item	Leased or Owned	Address (Canada)
A.	Owned	7143 Mallard Line, Grand Pointe, Ontario
B.		

**912613 ONTARIO LTD.**

Item	Owned or Leased	Address (Canada)
A.	Owned (Registered owner is 842578 Ontario Limited)	1579 Burlington Street East, Hamilton, Ontario
B.	Owned	1579 Burlington Street East, Hamilton, Ontario

**1233793 ONTARIO INC.**

Item	Owned or Leased	Address (Canada)
A.	Owned	222 First Road West, Stoney Creek, Ontario

**1195613 ONTARIO INC.**

Item	Property #	Owned or Leased	Address (Canada)
A.	505	Owned	4 Green Mountain Road, Stoney Creek, Ontario
B.	507	Owned	13 Mud Street West, Stoney Creek, Ontario
C.	526	Owned	272 First Road West, Stoney Creek, Ontario
D.	528	Owned	4 Green Mountain Road, Stoney Creek, Ontario (same as (a) above)

**PHILIP ENVIRONMENTAL (ELMIRA) INC.**

Item	Property #	Owned or Leased	Address (Canada)
A.	464	Owned	62 Union Road, Elmira, Ontario and 72/84 Howard Avenue
B.	519	Owned	First Street East, Elmira, Ontario

**CO-OWNED PROPERTY**

<b>Item</b>	<b>Property #</b>	<b>Owned or Leased</b>	<b>Address (Canada)</b>
<b>A.</b>	465	Owned 1/3 each by Philip Enterprises Inc., Philip Environmental (Elmira) Inc. and 2766906 Canada Inc.	237 Brant Street, Hamilton, Ontario

**SCHEDULE "I"**

**Affected Unsecured Claims**

<b><u>Creditor</u></b>	<b><u>Creditor's Address</u></b>	<b><u>Amount (Cdn\$)</u></b>
Ministry of Labour	1 Jarvis Street Hamilton, Ontario L8R 3J2	20,000
Larry Stasiuk	c/o Weir & Foulds 130 King Street West Suite 1600, P.O. Box 480 Toronto, Ontario M5X 1J5	15,000
Nortel Networks Corporation	8200 Dixie Road Brampton, Ontario L6G 5P6	0
Hitachi Credit Canada Inc.	c/o Borden & Elliott Scotia Plaza, 40 King Street West Toronto, Ontario M5H 3Y4	0
Robix Financial Corporation	c/o Stockwood Spies The Sun Life Tower 2512-150 King Street Toronto, Ontario M5H 1J9	0
Circuitel Canada Inc.	c/o Stockwood Spies The Sun Life Tower 2512-150 King Street Toronto, Ontario M5H 1J9	0

**SCHEDULE "C"**

Court File No.: 99-CL-3442

**SUPERIOR COURT OF JUSTICE  
(Commercial List)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT  
ACT, R.S.C. 1985, c. C-36., AS AMENDED**

**AND IN THE MATTER OF THE COURTS OF JUSTICE ACT, R.S.O. 1990,  
c. C-43, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE AND  
ARRANGEMENT OF PHILIP SERVICES CORP. AND THE  
APPLICANTS LISTED ON SCHEDULE "A".**

**APPLICATION UNDER THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C.-36, AS AMENDED.**

**SUPPLEMENT TO THE AMENDED AND RESTATED PLAN OF  
COMPROMISE AND ARRANGEMENT DATED  
SEPTEMBER 24, 1999**

**October 27, 1999  
(as amended on November 22, 1999)**



## PLAN SUPPLEMENT

This Plan Supplement amends and restates the Amended and Restated Plan of Compromise and Arrangement dated September 24, 1999 of Philip Services Corp. and its Canadian subsidiaries listed on Schedule "A" hereto pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1995, c. C-36, as amended.

### ARTICLE 1 INTERPRETATION

#### Section 1.1 Definitions

In this Amended Plan (including the Schedules hereto), unless otherwise stated or the context otherwise requires:

**"Account Intermediaries"** means (a) CIBC in its capacity as the provider of the CIBC Bank Account Services, and (b) Comerica Bank and its affiliates in their respective capacities as the providers of the Comerica Bank Account Services;

**"Administrative Agent"** means CIBC or its successor as administrative agent for the Lenders under the Credit Agreement;

**"Affected Claim"** means an Affected Secured Lender Claim;

**"Affected Creditor"** means a holder of an Affected Claim;

**"Affected Secured Lender Claim"** means a Secured Claim of a Lender against the Applicants arising under or as a result of the Credit Facility Agreements other than any Other Secured Claims;

**"Affected Secured Creditor"** means a holder of an Affected Secured Lender Claim;

**"Applicants"** means PSC and each of the Canadian Subsidiaries and  
**"Applicant"** means any one of the Applicants;

**"Assumed Indemnification Obligations" means (a) the obligations of PSC pursuant to section 7.02 of its bylaws to indemnify current and former directors and officers, on the terms and subject to the limitations described therein, if and to the extent that such indemnification is permissible under the Business Corporations Act (Ontario) or such other applicable governing corporate statute and (b) the obligations of the Applicants other than PSC to indemnify current and former directors and officers under their respective bylaws to the extent such indemnification obligations are not**

more expansive than those of PSC under section 7.02 of its bylaws if and to the extent such indemnification is permissible under the applicable governing corporate statute of the applicable Applicant; in each case, including any affirmative obligation of the Applicants to indemnify current and former directors and officers in connection with any governmental, regulatory or enforcement investigation or action and in each case solely with respect to such officer's or director's actions subsequent to becoming an officer or director of PSC or of a director or indirect subsidiary or affiliate of PSC; provided, however, that Assumed Indemnification Obligations shall not include Excluded Indemnification Obligations;

"BTCO" means Bankers Trust Company;

"Business Day" means a day which is not (i) a Saturday or a Sunday; or (ii) a day observed as a holiday under the laws of the Province of Ontario or the applicable federal laws of Canada;

"Canadian Subsidiaries" means, collectively, the direct and indirect subsidiaries of PSC listed on Schedule "A" hereto;

"CCAA" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

"CCAA Proceedings" means the CCAA cases of PSC and the Canadian Subsidiaries before the Court pursuant to the CCAA;

"Chapter 11 Cases" means the jointly administered Chapter 11 cases of PSI, PSC and the U.S. Subsidiaries before the United States Bankruptcy Court pursuant to the provisions of Chapter 11 of the United States Bankruptcy Code;

"CIBC" means Canadian Imperial Bank of Commerce;

"CIBC Bank Account Services" means "CIBC Bank Account Services" as defined in the Credit Agreement;

"Claim" means any right of any Person against any Applicant in connection with any indebtedness, liability or obligation of any kind of any Applicant whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, unknown, by guarantee, by surety or otherwise and whether or not such a right is executory in nature, including, without limitation, the right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter,

proceeds from the Sale Transactions that would otherwise be distributed to holders of Affected Secured Lender Claims.

#### **Section 4.2 Other Claims**

Claims that would have been Affected Unsecured Claims (as defined in the Amended and Restated Plan of Compromise and Arrangement of the Applicants dated September 24, 1999) will not be compromised. The holders of Affected Unsecured Claims will have the right, but will not be required, to elect to participate in distributions under the U.S. Plan as provided for therein.

#### **Section 4.3 Substantive Consolidation for Purposes of Treating Affected Claims**

The Amended Plan is premised upon the substantive consolidation of the Applicants only for purposes of treating Affected Secured Lender Claims under the Amended Plan, including for voting, sanction and distribution purposes. This Amended Plan does not contemplate substantive consolidation of the Applicants with respect to Unaffected Obligations. Except as set forth in this Section 4.3, such substantive consolidation shall not (other than for purposes related to the Amended Plan) (a) affect the legal and corporate structures of the Applicants, (b) cause any Applicant to be liable for any Claim under the Amended Plan, for which it otherwise is not liable and the liability of any Applicant for any such Claim shall not be affected by such substantive consolidation, (c) affect Intercompany Claims of Applicants against Applicants, or (d) affect Subsidiary Interests.

### **ARTICLE 5 MISCELLANEOUS**

#### **Section 5.1 Confirmation of Plan**

- (a) Provided that the Amended Plan is approved by the Required Majority of holders of Affected Secured Lender Claims, the Applicants will seek the Confirmation Order (which as proposed shall be in form and substance acceptable to the Applicants and the Required Lenders) for the sanction and approval of the Amended Plan; and
- (b) subject only to the Confirmation Order being granted in form and substance reasonably acceptable to the Applicants and the Required Lenders and the satisfaction of those conditions precedent to implementation of the Amended Plan described in <sup>^</sup> Section 5.4, the Amended Plan will be implemented by the Applicants and will be binding upon the Applicants and all holders of Affected Secured Lender Claims.

