

9/26/08

### PHOSPHATE MINING COMPACT

This Phosphate Mining Compact (the "Agreement") is entered into this \_\_\_ day of \_\_\_\_\_, 2008, by Mosaic Fertilizer, LLC ("Mosaic") and Charlotte County, a Political Subdivision of the State of Florida acting by and through its governing body, the Board of County Commissioners, ("Charlotte County") (Mosaic and Charlotte County, may sometimes hereafter be referred to a "party" or the "parties"). This Agreement shall become effective only upon (a) the execution of this Agreement by Mosaic and Charlotte County, and (b) the final approval by Charlotte County as required by Florida law and any applicable local ordinances, which written notice of such final approval shall have been given by Charlotte County to Mosaic. The date on which the last party to this Agreement signs it in the applicable signature block at the end of this Agreement shall be referred to as the "Effective Date."

#### WITNESSETH

**WHEREAS**, the parties share the objective of protecting the Peace River and Charlotte Harbor from certain mining impacts; and

**WHEREAS**, it is Mosaic's intent to conduct its operations under future mining permits in a manner that prevents or mitigates degradation of water quality and quantity in accordance with the terms of this Agreement; and

**WHEREAS**, it is Mosaic's intent to pursue and employ methods and new technologies to promote and achieve the objectives of this Agreement; and

**WHEREAS**, Mosaic commits to conduct its future operations to achieve or exceed the high environmental standards embodied in this Agreement; and

**WHEREAS**, the parties desire to maintain an open and continuing dialogue to work collaboratively to address future concerns regarding the region's water quality and quantity issues; and

**WHEREAS**, this Agreement provides the parties assurance that future disputes between the parties will be resolved more quickly, efficiently, and in a cost-effective manner with unresolved disagreements settled by objective environmental experts; and

**WHEREAS**, Mosaic's obligations and covenants under this Agreement will be binding upon any and all of its successors intending to mine phosphate on lands covered by this Agreement; and

**WHEREAS**, Mosaic agrees to confine all future mining in the Peace River Basin to specific, identified boundaries in this Agreement; and

**WHEREAS**, this Agreement significantly enlarges phosphate mining buffers by requiring clay-settling areas and new mining areas to be located outside the 100-year floodplains of the Peace River and its designated tributaries; and

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- Deleted: ; Sarasota County, a Political Subdivision of the State of Florida acting by and through its governing body, the Board of County Commissioners; Lee County, a Political Subdivision of the State of Florida acting by and through its governing body, the Board of County Commissioners; and the Peace River/Manasota Regional Water Supply Authority ("PRMRWSA"), a Special District of the State of Florida acting by and through its governing body.
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- Deleted: WHEREAS, Mosaic commits to working collaboratively with the PRMRWSA to implement feasible opportunities for utilizing Mosaic lands for water reservoirs or other forms of water resource capacity to help with future water supply needs of the region; and
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WHEREAS, Mosaic agrees to certify and maintain insurance coverage in the amount of \$50 million specifically for clean up or restoration costs in the event of a damaging discharge or release from a clay-settling area, thus ensuring that local governing bodies and taxpayers will not be potentially liable for such cost; and

WHEREAS, Charlotte County has either initiated or participated in significant litigation or administrative challenges in pursuit of its objectives; and

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WHEREAS, Mosaic presently is the largest phosphate mining entity in the Peace River Basin; and

WHEREAS, Mosaic has the right to conduct its mining operations, subject to its complying with applicable laws, and desires to take such other reasonable and practical measures that may be necessary to protect the water resources of the Peace River Basin and Charlotte Harbor; and

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WHEREAS, the parties desire to reach a reasonable accommodation of each other's respective objectives and mitigate the fees and expenses associated with protracted litigation.

NOW THEREFORE, in consideration of the foregoing premises, which shall be deemed an integral part of this Agreement, and the mutual covenants and agreements set forth below, the parties intending to be legally bound hereby agree as follows:

1. The parties agree to take actions to support and implement the purposes and intent of this Agreement. The parties also commit to continuing dialogue on matters of common interest or concern including the matters addressed in this Agreement. Accordingly, representatives of the parties shall meet periodically, but not less than annually, to address, as warranted, any or all of the following matters or any other subjects that merit discussion: (a) Mosaic's performance of its responsibilities hereunder and its then-planned future activities, including its planned permitting for the following year; (b) the effectiveness of the measures employed or planned to meet the objectives of this Agreement; (c) shared interests or concerns regarding water quality and resources in the Peace River Basin; (d) at the first meeting, an evaluation of the Ona Environmental Impact Statement to determine whether any additional analysis is warranted (which requires the unanimous consent of the parties), and (e) any comments, questions, or suggestions that Charlotte County may wish to convey to Mosaic. The parties intend that such communications will continue to facilitate cooperative efforts among them in order to understand and respond reasonably to each other's respective concerns and objectives. In addition, Charlotte County and Mosaic shall jointly create an annual "State of the Compact" report which shall be made available to interested local governments and governmental agencies who are not parties to this Agreement, and to the general public.
2. Mosaic will conduct its phosphate mining operations in Hardee, DeSoto, and Manatee Counties within the boundaries set forth in the attached **Exhibit A**. However, nothing in this Agreement shall operate or be construed so as to restrict Mosaic's rights to acquire land or to conduct phosphate mining operations in any other locations outside of such boundaries in locations other than Hardee, DeSoto, Manatee, or Charlotte Counties.

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3. Mosaic shall adopt and thereafter adhere to stricter controls and measures than those currently required under Chapter 62-672, Florida Administrative Code, for the future design and construction of clay-settling areas in the Peace River Basin; ~~and, beginning on the Effective Date of this Agreement, Mosaic shall meet the design criteria specified in the guidelines set forth in the attached Exhibit B, or such stricter standards as are then required by applicable law, or shall employ equivalent or superior measures to achieve comparable results. Mosaic shall provide Charlotte County with thirty (30) days written prior notice of its intent to substitute new design or construction criteria for those specified in the attached Exhibit B.~~
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4. Mosaic shall adopt and thereafter adhere to stricter standards than those currently required to prevent dewatering impacts to on-site preserved wetlands and off-site wetlands in the Peace River Basin from Mosaic's operations conducted pursuant to permits issued in the future ("future-permitted mining operations"), including use of injection wells to augment or maintain the surficial aquifer, where effective, appropriate, and approved by the applicable permitting agencies. In areas where the site-specific mining depth will exceed fifty feet, Mosaic shall apply for construction permits for injection wells within one year of conducting activities that could result in dewatering and obtain construction permits for injection wells prior to conducting such activities for any unmined portions of its existing mines in the Peace River Basin where Mosaic expects that potential dewatering impacts to the surficial aquifer or preserved wetlands may occur (including Ona, Pine Level and South Fort Meade (in Hardee County)) in the Peace River Basin. For mine sites where active dewatering techniques are not employed, such as dredge mining applications, no additional mitigative measures will be required with respect to the maintaining of the surficial aquifer level unless otherwise required by the applicable permitting agencies.
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5. The principal purpose of this Agreement is to further secure the water resources and water quality in the Peace River Basin. To that end, Mosaic shall take such additional, independent steps not currently required by law as are necessary to ensure that its future-permitted mining operations do not cumulatively cause adverse impacts on water quality downstream of such operations. Further, Mosaic shall take such additional, independent steps not currently required by law as are necessary to mitigate adverse impacts from such future-permitted mining operations on both the quantity and timing of surface water flow in the Peace River Basin, seepage of groundwater to wetlands and other surface waters, and percolation recharge of the water table and aquifer. The foregoing goals and terms are to be understood, and determinations of Mosaic's compliance with them shall be made, in reference to and in accordance with the more specific terms and guidance set forth in Paragraph 6.
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6. Obligations under Paragraph 5 shall be met by complying with the design criteria and standards set forth in the attached Exhibit C and all of the other specified requirements of this Agreement, as applicable. Obligations under Paragraph 5 may also be met by such supplemental or alternative measures, methods, and techniques that provide an equivalent or greater level of environmental protection as would be provided by compliance with the terms of the attached Exhibit C, provided such Substitute Measures (as defined in Paragraph 13) are acceptable to all applicable regulatory agencies with permitting jurisdiction over the Substitute Measures. In order to monitor the effectiveness and performance of Mosaic's obligations under Paragraph 5, particularly in reference to the broad standards set forth

therein, Mosaic and Charlotte County shall cooperate in the development of a suitable monitoring and assessment program, adapted from concepts and methods utilized in similar programs and designed to identify or isolate impacts from future-permitted mining activities. The monitoring and assessment program to be developed by Mosaic shall be consistent with the framework and standards contained in the attached **Exhibit D**. The parties recognize and agree, *inter alia*, that Mosaic shall develop and conduct the monitoring and assessment program in consultation with Charlotte County. The program shall reflect the experience and understanding of the parties that site-specific factors, flexibility, recognized statistical methodologies, and variances may be appropriate elements. The program shall take due account of applicable state and federal water quality criteria and principles, TMDL's (as defined in Paragraph 11), and the parties' experience in similar matters in similar circumstances. The focus shall be on significant, cumulative impacts from each future-permitted mining operation, not isolated or mere statistical variations in particular parameters at one or more monitoring locations. The parties recognize and agree that there are multiple other impacts on water resources and water quality (e.g. agricultural, industrial, urban runoff, residential, and other impacts) for which Mosaic is not responsible and is not obligated by this Agreement to study, remedy, or mitigate. The monitoring and assessment program shall be developed by Mosaic prior to the Effective Date of this Agreement consistent with principles set forth in **Exhibit D**.

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Mosaic shall not mine within the 100-year floodplains as defined or approved by the Southwest Florida Water Management District ("SWFWMD"), and as they exist on the date of permitting, of the Peace River, Little Charlie Creek, Payne Creek, Horse Creek, West Fork Horse Creek, Troublesome Creek, Joshua Creek or Charlie Creek. With respect to other perennial streams, Mosaic may mine such other defined streams (represented by solid blue lines on United States Geological Survey quadrangle maps; see also Strahler stream definition) in the Peace River Basin, provided that the mined stream segments are mitigated at a 1.25-1 ratio by either restoring other channelized stream segments or re-creating other previously existing natural stream segments in the Peace River Basin. In addition, Mosaic agrees that it shall not mine within the areas depicted on **Exhibit E**. Mosaic shall strive to restore mined stream segments (to the extent any are mined by Mosaic) so that they will possess natural stream characteristics after the reclamation process has been completed. Nothing in this provision shall operate or be construed as affecting the mining of perennial streams by Mosaic outside of the Peace River Basin.

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Mosaic shall plan and site future clay-settling areas outside of the 100-year floodplains, as defined or approved by SWFWMD, of the Peace River, Little Charlie Creek, Payne Creek, Horse Creek, West Fork Horse Creek, Troublesome Creek, Joshua Creek, and Charlie Creek, beginning on the Effective Date of this Agreement. In addition, Mosaic agrees that it shall plan and site future clay-settling areas outside the areas depicted on **Exhibit E**.

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Mosaic has provided acceptable evidence to Charlotte County that it has in place insurance coverage in the amount of Fifty Million (\$50,000,000) Dollars to provide, as necessary, for payment of cleanup and restoration costs directly attributable to any discharges or releases from or the failure of clay-settling areas located on lands owned, leased, or otherwise controlled by Mosaic within the Peace River Basin. Mosaic shall maintain insurance coverage equivalent to or exceeding its existing coverage during the term of this Agreement,

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so long as such insurance coverage shall be generally available on terms that are not materially different from the terms available to Mosaic as of the Effective Date of this Agreement. On an annual basis, Mosaic shall provide Charlotte County with a certificate of insurance evidencing such coverage. If general industry conditions prevent Mosaic from obtaining such insurance coverage, then Mosaic shall provide alternative financial assurance, such as letters of credit, surety bonds, alternative insurance, other financial mechanisms, or a combination thereof, designed to be functionally equivalent to the insurance coverage referenced in this paragraph. The insurance coverage referenced in this paragraph is not intended to be in lieu of any obligations which may be required of Mosaic by applicable law. Mosaic agrees to name Charlotte County as additional insureds under such coverage to the extent of the limits described above.

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On or prior to the tenth anniversary of this Agreement, the PRMRWSA and Mosaic agree to hold a meeting to discuss the feasibility of Mosaic providing for seasonal enhancement of minimum flows and levels within the Myakka River Basin. The parties understand that no obligations exist and that any agreements which may be reached would be reduced to writing and executed by authorized individuals from the PRMRWSA and Mosaic.

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10. Charlotte County is currently a member of the Peace River/Manasota Regional Water Supply Authority ("PRMRWSA"). Within twenty (20) years of the Effective Date of this Agreement, Mosaic shall provide at no charge to the PRMRWSA or its successor or assigns a site on mined or un-mined land within DeSoto or Manatee Counties for the construction of a reservoir capable of storing approximately 15,000 to 20,000 acre-feet volume of water, provided however, that no site shall be made available to PRMRWSA unless Charlotte County (i) is a member of the PRMRWSA at the time of the transfer; (ii) has approved a project to move forward with the construction of a water reservoir; (iii) has a firm commitment for the financing of the construction of the water reservoir project; and (iv) terms and conditions of the site to be conveyed by Mosaic are documented to the reasonable satisfaction of both Mosaic and the PRMRWSA. The reservoir site and related mineral rights owned by Mosaic, if any, beneath such site shall be conveyed by fee simple deed to PRMRWSA with reasonable and necessary ingress and egress and utility easements. The foregoing obligation is contingent upon securing all necessary government and regulatory approvals and upon the support and concurrence of all relevant local government authorities, provided Mosaic shall have made good faith efforts to secure same. The PRMRWSA shall be responsible for the design, permitting, construction and operation of any reservoir on land furnished by Mosaic. The siting and construction of the reservoir shall be contingent upon securing all necessary governmental and regulatory approvals. Mosaic shall cooperate with the PRMRWSA in securing necessary governmental and regulatory approvals.
11. Mosaic shall support the development of reasonable Total Maximum Daily Load ("TMDL") allocations for its activities within the Peace River Basin, but reserves the right to negotiate appropriate TMDL's for its own operations.
12. Mosaic commits not to site, construct or acquire a phosphate fertilizer manufacturing facility which manufactures finished fertilizer products (i.e., DAP or MAP products) or results in the creation of phosphogypsum stacks not in existence on the Effective Date of this Agreement in (i) Charlotte County or (ii) in the Hardee, DeSoto or Manatee Counties within the boundaries set forth in the attached **Exhibit A**.
13. This Agreement specifies certain design or location criteria to be followed by Mosaic; and the attached **Exhibits B and C** also provide requirements and guidelines, respectively, for future-permitted mining operations. It is the parties' intent that these methods and specific requirements shall be deemed, if implemented, to constitute compliance with the overall

performance standards for future-permitted mining operations as set forth in Paragraph 5. Consequently, the parties agree and recognize that other methods or means to the same ends may, in the future, prove to be equally effective as or more effective than one or more of those set forth in the attached Exhibit B or Exhibit C, and the parties do not wish to stifle ingenuity, cost-effectiveness, or practical improvements for such future-permitted mining operations. Consequently, the parties understand that Mosaic may, in all cases, elect to adopt different or supplemental measures, techniques, or methods (hereinafter jointly referred to as "Substitute Measures") to achieve compliance with its obligations under this Agreement, provided (a) applicable permitting agencies do not object to same, and (b) the environmental protection thereby achieved equals or exceeds that which the omitted, specified requirements and/or guidelines would provide. Disputes concerning the adequacy of any such Substitute Measure shall be resolved pursuant to Paragraph 16.

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14. Charlotte County agrees not to directly or indirectly oppose Mosaic's mining activities, operations, or permitting activities within the boundaries of its current and prospective reserves as described in Paragraph 2 and shown on the attached Exhibit A, after the Effective Date of this Agreement as follows:

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A. Within ten (10) business days after the Effective Date of this Agreement, Charlotte County shall take all steps necessary to dismiss with prejudice any pending civil or administrative litigation or other proceedings against Mosaic, including all appeals;

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B. Charlotte County shall not initiate, cause, participate in or pursue any administrative or judicial litigation directly or indirectly opposing Mosaic's mining activities, operations, or permitting activities within the boundaries of its current and prospective reserves as described in Paragraph 2 and shown on the attached Exhibit A; provided however, this restriction shall not limit Charlotte County from taking legal action to protect the public against an imminent, serious threat to the health, safety and welfare of its citizens from an emergency situation for which the dispute resolution process specified in Paragraph 16 would not provide an adequate and timely solution;

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C. Within ten (10) business days after the Effective Date of this Agreement, Charlotte County shall withdraw any written comments submitted to the United States Army Corps of Engineers, the Florida Department of Environmental Protection or any other regulatory or permitting agency directly or indirectly opposing the permitting of Mosaic's mining activities, operations, or permitting activities within the boundaries of its current and prospective reserves as described in Paragraph 2 and shown on the attached Exhibit A; and

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D. Charlotte County shall not initiate, cause or pursue any written or verbal comments to the United States Army Corps of Engineers, the Florida Department of Environmental Protection or any other local, state or federal regulatory or permitting agency directly or indirectly opposing the permitting of Mosaic's mining activities within the boundaries of its current and prospective reserves as described in Paragraph 2 and shown on the attached Exhibit A. This provision shall not prohibit Charlotte County

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from contacting appropriate regulatory agencies to discuss or report an alleged violation of the law.

The foregoing shall not restrict Charlotte County from initiating, causing, pursuing, making any public comment, or advocating in support of general legislative or regulatory changes applicable to the phosphate industry (including by participating in the Peace River Management Plan Advisory Panel or team permitting, if team permitting is requested by Mosaic), nor from taking any action, either directly or indirectly, opposing the mining activities, operations, or permitting activities of entities other than Mosaic or its affiliates, or from enforcing the terms of the Agreement.

15. The parties agree to the following satisfaction and release of claims as follows:

A. Charlotte County releases and discharges Mosaic as well as its parents, subsidiaries, principals, directors, officers, shareholders, employees, contractors, agents, attorneys, and representatives, collectively and individually, from any and all claims, demands, causes of action, actions, damages, or remedies, of any kind and every nature whatsoever ("Claim" or "Claims"), contingent or matured, in law, in equity or otherwise, whether based on contract, statute, tort, or strict liability, and whether for damages or other remedies, which Charlotte County has knowledge of and which exists on the Effective Date of this Agreement against Mosaic relating to any of its phosphate mining or related activities in or concerning the Peace River Basin.

B. Mosaic releases and discharges Charlotte County as well as its employees, contractors, agents, attorneys, and representatives, collectively and individually, from any and all Claims, contingent or matured, in law, in equity or otherwise, whether based on contract, statute, tort, or strict liability, and whether for damages or other remedies, which Mosaic has knowledge of and which exists on the Effective Date of this Agreement against Charlotte County relating to any of its actions by opposing, challenging or litigating phosphate mining or related activities in or concerning the Peace River Basin.

C. The provisions of this Paragraph 15 shall survive the expiration or termination of this Agreement.

16. If any claim or other dispute arises between or involving the parties (i) arising out of or relating in any way to this Agreement, or (ii) arising out of or relating in any way to any of Mosaic's current or future phosphate mining or other phosphate mining activities within the boundaries of its current and prospective reserves as described in Paragraph 2 and as shown on Exhibit A (collectively a "Dispute"), then the following procedures shall apply:

A. Negotiation in Good Faith. If Mosaic and/or Charlotte County believes that a Dispute exists or has arisen, that party shall promptly notify the other party and its counsel by Federal Express or similar overnight carrier, or by registered or certified United States Mail, return receipt requested ("Initial Notice"). The Initial Notice shall describe the Dispute with specificity, including those steps the notifying party believes are necessary to resolve it. Thereafter, within 30 days from the date of such

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Deleted: 15. Mosaic agrees not to directly or indirectly oppose the withdrawal and use of water by the PRMRWSA or its successor or assign from the Peace River Basin or the Myakka River Basin after the Effective Date of this Agreement, as follows:

A. Within ten (10) business days after the Effective Date of this Agreement, Mosaic shall take all steps necessary to dismiss with prejudice any pending civil or administrative litigation, appeal or other proceeding against PRMRWSA;

B. Mosaic shall not initiate, cause, participate in or pursue any administrative or judicial litigation directly or indirectly opposing the withdrawal and use of water by the PRMRWSA or its successor or assign from the Peace River Basin or the Myakka River Basin;

C. Within ten (10) business days after the Effective Date of this Agreement, Mosaic shall withdraw any written comments submitted to the Florida Department of Environmental Protection or any other regulatory or permitting agency directly or indirectly opposing the permitting of the withdrawal and use of water by the PRMRWSA or its successor or assign from the Peace River Basin or the Myakka River Basin; and

D. Mosaic shall not initiate, cause, participate in or pursue any written or verbal comments to the United States Army Corp of Engineers, the Flor...

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notice, representatives from each party with authority to resolve the Dispute (subject to their respective Board's approval) shall meet at a mutually agreeable place and time in a good faith effort to resolve any such Dispute.

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B. Mediation. If the parties are unable to resolve the Dispute through negotiation within 30 days from the date of the meeting described in Paragraph 16(A) or within 60 days of the date Initial Notice was sent, or any longer time period agreed to by the parties involved in the Dispute, then the parties shall submit the Dispute to mediation before an impartial third party with significant expertise in the environmental, land use, and/or other matters at issue in the Dispute. Each party to the mediation shall pay its own costs and expenses in connection with the mediation and its proportionate share of the fees and expenses of the mediator. Unless the parties to the Dispute otherwise agree, the mediation shall terminate within 90 days of the date of Initial Notice and arbitration shall then promptly proceed.

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C. Arbitration. If the parties are unable to resolve the Dispute through mediation as provided in Paragraph 16(B), the completion or termination of which shall be a condition precedent to any further action by any party regarding a Dispute, then the Dispute shall be adjudicated by a three-arbitrator panel in accordance with the then-current Florida Arbitration Code (currently Sections 682.01 - 682.22, Florida Statutes ("FAC")). The arbitrators shall apply and enforce the then-existing Florida Evidence Code, in such arbitration in the same manner as a judge would enforce them in any state court trial. Within 30 days of terminating or reaching impasse in mediation, Charlotte County shall appoint one arbitrator, and Mosaic shall appoint one arbitrator. Within 30 days of these two arbitrators being selected, the selected arbitrators shall select the third arbitrator, who shall chair the panel. If the two arbitrators have failed to agree upon a third arbitrator within the 30 day deadline, the third arbitrator shall be selected by the American Arbitration Association. The arbitrators (i) shall not be employed or under contract or employed by a company under contract to any party, including all parents, subsidiaries or affiliates; and (ii) shall be free of any conflicts of interests in the matter and of any relationship or bias with respect to the parties. All arbitrators shall be attorneys (i) licensed by The Florida Bar, (ii) with a minimum of 10 years of practice experience, and (iii) with significant expertise in the environmental, land use, and/or other matters at issue in the Dispute. Any arbitration hearing pursuant to this paragraph shall take place in Tampa, Florida within 120 days following the appointment of all three arbitrators. The governing criteria in the arbitration hearing shall be the terms and conditions of this Agreement. The arbitrators shall render a decision within 60 days after the conclusion of the arbitration hearing. The decision and/or award of the arbitrators shall be by majority and shall be binding, final, and non-appealable upon the parties. Judgment upon the award may be entered in any court having jurisdiction. Any question or disagreement concerning whether a Dispute (including any part thereof or issue therein) is arbitrable shall be determined by the arbitrators. Any question or disagreement regarding the enforceability of this arbitration provision shall be decided by the Circuit Court of Hillsborough County in accordance with Florida law interpreting the FAC. In the event the arbitrators are not appointed or fail to render a decision and/or award within the time frames specified in this paragraph, one or more parties

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participating in the arbitration may seek and secure such relief as is necessary to effectuate the provisions and intent of this Paragraph 16 from any court having jurisdiction to afford same.

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In accordance with the purpose of this Agreement, the parties shall resolve all Disputes (except as provided for in Paragraph 20) that may arise during the life of this Agreement in accordance with the provisions described in this paragraph, including whether an issue between the parties constitutes an arbitrable Dispute under this Agreement.

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17. It is the intent of the parties that Mosaic's obligations hereunder be fully performed notwithstanding any business transaction that may occur after the Effective Date of this Agreement that results in a person or entity other than Mosaic owning any or all of the real property located in the Peace River Basin for which Mosaic has an obligation to Charlotte County under this Agreement (the "Subject Property"). Consequently, Mosaic represents, warrants, covenants, and agrees that in the event Mosaic decides to participate in any business transaction that would result in a change of ownership of any Subject Property by sale, assignment, or transfer to a purchaser who intends to conduct phosphate mining operations thereon (a "Change in Property Transaction"); Mosaic shall: (a) inform all parties to such Change in Property Transaction of Mosaic's obligations under this Agreement; (b) provide each such party with a copy of this Agreement (including all exhibits); (c) require each party to a Change in Property Transaction which intends to conduct phosphate mining operations to execute an assumption of Mosaic's then existing obligations under this Agreement as to any Subject Property; and (d) for any Change in Property Transaction of 1,000 acres or more, provide the Local Governments with written notice at least sixty (60) days before closing of any Change in Property Transaction and a copy of such assumption agreement at least 30 days prior to closing. This Agreement shall be binding upon and inure to the benefit of any successors of Mosaic. No right or cause of action shall accrue upon or by reason hereof, or for the benefit of any person other than the parties, except as expressly elsewhere herein provided.

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Within 120 days of the execution of this Agreement, Charlotte County may, at its sole cost and expense, record this Agreement in the official records of the relevant county jurisdictions within the State of Florida where Mosaic owns, leases or otherwise controls lands to which Mosaic owns the mineral rights or has an option to purchase mineral interests unless the property has completed the reclamation process. This Agreement and the covenants herein shall run with with the land.

18. All matters arising out of or related to this Agreement, including the parties' performance hereunder shall be governed by, and construed in accordance with, the laws of the State of Florida.

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19. This Agreement shall be assignable by Mosaic, whether in whole or in part, to an entity controlling, controlled by, or under common control with Mosaic (a "Mosaic affiliate") upon written notice to Charlotte County. Otherwise, no assignment, delegation, transfer, or novation of this Agreement or any part thereof shall be made unless approved in writing by the parties. No assignment, delegation, or transfer, however, shall be effective, whether to a Mosaic affiliate or otherwise, unless the assignee, delegate, or transferee assumes in writing

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all existing duties, obligations, and covenants created under this Agreement, as may be amended. Any party executing such assumption shall succeed to the rights and benefits of Mosaic to the full extent of such assumption, and such party shall be treated as if it were Mosaic for all purposes with respect to such land for which it has executed such assumption. Failure to assume all existing duties, obligations, and covenants created under this Agreement, as may be amended, shall automatically render this assignment null and void in its entirety, unless otherwise agreed in writing by the affected parties. Any Dispute arising from this provision is expressly excluded from the alternative dispute resolution provisions of Paragraph 16 of this Agreement.

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20. In the event that DEP or any applicable permitting agency adopts rules or regulations after the Effective Date of this Agreement that require Mosaic to comply with stricter standards than those adopted by Mosaic under this Agreement, then Mosaic's compliance with such stricter applicable permitting agency standards shall for all purposes satisfy Mosaic's obligations hereunder. Such stricter standards, where applicable, shall then become the standards that apply to Mosaic under this Agreement. Any Disputes as to whether a future regulatory standard is stricter than those under this Agreement shall be resolved pursuant to Paragraph 16 of this Agreement.

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21. In the event any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the parties shall negotiate in good faith and agree to such amendments, modifications, or supplements of this Agreement or such other appropriate actions, as shall, to the maximum extent practicable in the light of such determination, implement and give effect to the intentions of the parties, as reflected herein. Until such amendments, modifications, or supplements are agreed to by the parties, the remainder of the Agreement, which was not determined to be invalid, illegal, or unenforceable, shall remain in full force and effect.

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22. This Agreement is not recordable and each of the parties warrants, covenants, and agrees that it will not record this Agreement or any part, summary, or memorandum thereof.

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23. The term of this Agreement shall be for a period of 15 years beginning from the Effective Date of this Agreement, provided however, that Paragraph 10 shall be in effect for a period of 20 years beginning from the Effective Date of this Agreement. One year prior to the expiration of the Agreement, Charlotte County and Mosaic shall give written notice to each other of their decision to extend the Agreement for an additional 15 year period or, alternatively, to terminate the Agreement upon the expiration of the initial 15 year period. If all parties indicate that they desire to extend the Agreement, the Agreement shall be automatically extended for a period of 15 years. If Charlotte County decides not to extend the Agreement, Mosaic has the option of extending the Agreement for an additional 15 years or allowing the Agreement to expire.

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24. Notwithstanding anything else herein to the contrary, Mosaic shall have the right, but not the obligation, to terminate this Agreement by providing written notice to Charlotte County if any local county government (including Charlotte County) or other third party files any challenges to Mosaic's phosphate permits, whether through an administrative process or otherwise. Additionally, Mosaic shall have the right, but not the obligation, to terminate this

Agreement by providing written notice to Charlotte County at any time during which Mosaic's permits are being challenged by any local county government or other third party including, without limitation, the current permit challenge by Lee County and Sarasota County relating to Mosaic's South Ft. Meade permit. Upon any termination of this Agreement by Mosaic, the obligations of each party to this Agreement shall immediately terminate and cease and each party shall be free to pursue any actions or other remedies it may desire against the other party.<sup>1</sup>

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25. This Agreement reflects the entire agreement between the parties with respect to the matters set forth herein. This Agreement supersedes any prior representations, understandings, or agreements between or among the parties regarding any of the matters set forth herein except the Altman Tract Settlement Agreement dated May 23, 2006 will continue in full force and effect. This Agreement may only be amended by a writing duly executed by the parties.

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Deleted: that the Settlement Agreement between the PRMRWSA and IMC Phosphates Company dated March 5, 2003, and

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26. This Agreement and any related instruments shall not be construed more strictly against any party regardless of who was more responsible for its preparation, it being recognized that this Agreement and any related instruments are the product of extensive negotiations between the parties and that all parties have contributed substantially and materially to the final preparation of this Agreement and all related instruments.

27. The waiver by any party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach.

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28. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same instrument. A facsimile, electronic, or other genuine copy of this Agreement and any attendant signatures shall be considered for all purposes as originals.

29. No party shall be liable for delays or failure to perform, in whole or in part, as a result of causes beyond its control, including but not limited to labor disputes, acts or restraints of government or other third parties, restrictions on imports or exports, unavailability of raw materials, war, or acts of God, such as fires, storms, or other adverse weather or geologic conditions.

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30. Each person signing this Agreement in a representative capacity for a party represents and warrants that: (a) he or she has read the Agreement; (b) that the party he or she represents it

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**NOTE: The original version of the Compact did not contain a termination provision because Mosaic had proposed a global resolution involving Charlotte, Sarasota and Lee Counties, as well as the Peace River/Manasota Water Supply Authority. Unfortunately, since the approval of the Phosphate Mining Compact by Charlotte County, Ed de la Parte, Charlotte County's outside counsel, has elected to advance a permit challenge involving Mosaic's South Ft. Meade permit on behalf of Lee County which is inconsistent with the spirit and intent of this Compact. Furthermore, Sarasota County has also intervened in the South Ft. Meade permit. Because the only fundamental right that flows to Mosaic under this Compact directly involves the avoidance of future administrative challenges, it is necessary for this provision to be added otherwise the Compact would be fundamentally unfair to Mosaic - Charlotte County maintains all of the benefits while Mosaic continues to respond to administrative challenges from local county governments. Note also that while this provision provides a termination right, it is not an obligation, and Mosaic would need to evaluate the circumstances that the time a third party initiates a permit challenge to determine if it was necessary to terminate the Compact.**

has received substantial advice from experienced counsel regarding the enforceability of, and rights and duties created by, this Agreement; (c) is an authorized representative of the party for which he or she has signed; (d) he or she and the party that he or she represents has executed this Agreement on its own volition; and (e) and that the execution of this Agreement by him or her on behalf of such party has been duly authorized.

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31. Except as expressly set forth in this Agreement, Charlotte County does not waive its rights under the Florida Constitution, Section 768.28, Florida Statutes and any other applicable statute or common law granting sovereign immunity to political subdivisions and special districts of the State of Florida.

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32. All notices, demands, requests and other communications shall be deemed sufficient and properly given, if in writing and delivered in person to the following addresses, sent by certified or registered mail, or by overnight delivery, postage prepaid with return receipt requested, at such addresses; provided, if such notices demands, requests or other communications are sent by mail or overnight delivery, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or a day on which United States mail is not delivered: the Charlotte County Administrator's Office, Charlotte County Administration Center, 18500 Murdock Circle, Port Charlotte, Florida 33948-1094; and Mosaic Fertilizer, LLC, c/o The Mosaic Company, Attention: General Counsel, 3033 Campus Drive, Suite 490E, Plymouth, Minnesota 55441. Any party may, by like notice, designate any further or different addresses to which subsequent notices shall be sent.

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Deleted: the PRMRWSA's Executive Director's Office, 6311 Atrium Drive, Suite 100, Bradenton, Florida, 34202;  
Deleted: the Sarasota County Administrator's Office, 1660 Ringling Boulevard, Sarasota, Florida 34236; Lee County Manager's Office, 2115 Second Street, 6th Floor, Ft. Myers, Florida 33902-0398;  
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MOSAIC FERTILIZER, LLC

WITNESS:

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

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument on behalf of Mosaic Fertilizer, LLC, and \_\_\_\_\_, acknowledged before me that \_\_\_\_\_, executed same as a free act and deed for the uses and purposes therein stated.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 2007.