

**ENVIRONMENTAL SERVICES MASTER CONTRACTOR AGREEMENT  
ARCELORMITTAL USA COMPANIES (AMUSA-103) (February 2013)**

This **ENVIRONMENTAL SERVICES MASTER CONTRACTOR AGREEMENT** is made this \_\_\_\_\_, between  
(Date)

Full Legal Name of environmental contractor ("Environmental Services Contractor")	Full Legal Name of ArcelorMittal Company ("Owner Signatory")	
State of Incorporation	State of Incorporation	
Address of Environmental Services Contractor	Address of Owner Signatory	
Environmental Services Contractor Signature	Owner Signatory Signature - Procurement	Owner Signatory Signature - Operations
Title - Printed	Title - Printed	Title - Printed
Officer Name-Printed	Officer Name - Printed	Officer Name - Printed

For good and valuable consideration, the receipt of which is hereby acknowledged, intending to be legally bound, Owner and Environmental Services Contractor agree as follows:

1. a. The "Safety Handbook" shall mean the Contractor Safety, Health and Environment Handbook, as amended from time to time, and accessible at: <http://www.arcelormittal.com/NA/Facilities/Americas/ArcelorMittal+USA/Procurement/Terms+and+Conditions.asp>  
 b. The General Terms Environmental Service Contracts" shall mean the AMUSA-103 General Terms and Conditions attached hereto as Appendix 1;  
 c. A "Purchase Order" under this Environmental Contractor Agreement shall mean a document identified as a "Purchase Order," "Order," or "Blanket Order," specifying (i) the nature and scope of environmental services for the Environmental Services Contractor to perform (the "Environmental Service Work"), (ii) the price (or manner for calculating the price) to be paid to Environmental Services Contractor for performing the Environmental Service Work and payment terms therefore (the "Contract Price"), and (iii) the schedule or other statement of when the Environmental Services Contractor is to perform the Environmental Service Work (the "Contract Schedule").  
 d. The "Other Contractual Documents", individually and collectively, shall mean other documents, if any, attached hereto as an Exhibit or Addendum or that Owner may attach to and/or incorporate by reference into a Purchase Order.
2. From time to time, Owner may, but is not obligated to, issue to Environmental Services Contractor one or more Purchase Orders.
3. Environmental Services Contractor may, but is not obligated to, accept a Purchase Order either by express acceptance thereof or by beginning performance of the Environmental Service Work specified therein on or about the date specified in the Purchase Order. Environmental Services Contractor's acceptance of a Purchase Order shall create a binding and enforceable contract (an "Environmental Service Contract") with respect thereto, consisting of the Safety Handbook, the AMUSA-103 General Terms Environmental Service Contracts, the Purchase Order (including without limitation the Environmental Service Work, Contract Price and Contract Schedule specified therein) and any Other Contractual Documents; and acceptance shall also be deemed to mean Environmental Services Contractor's acknowledgement that it has read, understands and accepts all terms, conditions and provisions in each of said documents.
4. For each Environmental Service Contract, Environmental Services Contractor shall (i) complete the Environmental Service Work, including without limitation the performing of all work, the providing of all goods and services, and the furnishing of all materials, tools, equipment, labor and supervision, engineering, design, scheduling, procurement, and any other articles and activities necessary or incidental to the timely completion of the Environmental Service Work, (ii) meet the Contract Schedule, and (iii) be paid the Contract Price, all of (i), (ii) and (iii) subject to and in strict compliance with all terms, conditions and provisions of the Environmental Service Contract.
5. In the event any inconsistencies or discrepancies arise among this Execution Sheet and any parts of the Environmental Service Contract and the precedence is not otherwise specified, this Execution Sheet shall govern, and then in descending order: (i) the Safety Handbook, (ii) the AMUSA-103 General Terms Environmental Service Contracts; and (iii) the Purchase Order and any Other Contractual Documents attached to it; and (iv) the Other Contractual Documents.
6. This Environmental Services Master Contractor Agreement shall not be binding unless fully executed by the parties (including dual signatures by Owner).

IN WITNESS WHEREOF, Owner and Environmental Services Contractor have each executed this Environmental Contractor Agreement by causing their duly authorized representative(s) to affix their signature(s) above.

February 2013

## APPENDIX 1

### GENERAL TERMS AND CONDITIONS FOR ENVIRONMENTAL SERVICE CONTRACTS ARCELORMITTAL COMPANIES IN THE USA (AMUSA-103 February 2013)

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## SECTION 1. DEFINITIONS

(a) As set forth in the Execution Sheet for the Environmental Master Services Agreement executed by Environmental Service Contractor (the "Execution Sheet") all Environmental Service Contracts, each of which shall be referred to individually as this "Environmental Service Contract," consists of the following documents:

(i) The Environmental Service Contractor Safety, Health and Environmental Handbook (the "Safety Handbook"), attached to the Execution Sheet as Attachment 1.a, as amended from time to time.

(ii) These AMUSA-103 General Terms Environmental Service Contracts; and

(iii) Any other terms, conditions and provisions in (A) any other documents attached to the Purchase Order applicable hereto, including without limitation (1) the Statement of Environmental Service Work, (2) the Contract Schedule, and (3) the Contract Price; and (B) any Other Contractual Documents.

(b) Unless otherwise defined in a document taking precedence over these AMUSA-103 General Terms Environmental Service Contracts, capitalized terms shall have the following definitions throughout this Environmental Service Contract:

(i) "Applicable Laws" shall mean all local, state and federal ordinances, codes, rules, regulations, specifications and laws, including without limitation environmental laws, regulations and standards, safety and building codes, and emergency planning and community right-to-know laws that are (i) currently applicable to Environmental Service Contractor's performance of the Environmental Service Work and to all goods and services to be provided to Owner under this Environmental Service Contract, or (ii) enacted and scheduled to become applicable on a future date certain and that Environmental Service Contractor knows or should know are applicable to Environmental Service Contractor's performance of the Environmental Service Work and to all goods and services to be provided to Owner under this Environmental Service Contract.

(ii) "Change Orders" shall have the meaning set forth in Section 6 of these AMUSA-103 General Terms Environmental Service Contracts.

(iii) "Claims" shall mean any and all claims, actions, suits, demands, arbitrations and causes of action or other similar activity made, filed, done or attempted or submitted for or on account of any actual or alleged liabilities, losses, damages, fines, penalties, awards, judgments, decrees, orders, holdings, determinations, opinions, costs and expenses of every kind and amount whatsoever (including without limitation reasonable attorney's fees), on account of or as result of any actual or alleged loss of, damage to or defect in property or any actual or alleged illness or injury, including death, of one or more persons.

(iv) "Completion Date" shall have the meaning specified in the Purchase Order applicable to this Environmental Service Contract.

(v) "Contract Price" shall have the meaning specified in the Purchase Order applicable to this Environmental Service Contract.

(vi) The "Contract Schedule" shall have the meaning specified in the Purchase Order applicable to this Environmental Service Contract.

(vii) "Environmental Service Contractor" shall mean the party or parties identified as Environmental Service Contractor on the Execution Sheet or its affiliate who is properly licensed and/or registered with the Job Site state.

- (viii) "Environmental Service Agreement" shall mean the "master-type" agreement executed by Environmental Service Contractor and Owner on the Execution Sheet in order to establish the terms, conditions and provisions for entering into one or more Environmental Service Contracts.
- (ix) "Current or Former Owner's Employee or Relative" shall mean any person who is currently or was a salaried, non-represented employee of Owner or of any Affiliate of Owner (a "Current or Former Employee"), the current spouse of a Current or Former Employee, and any person who is a parent, child or sibling of a Current or Former Employee.
- (x) "Job Site" shall mean the location at Owner's facility where the Environmental Service Work is to be performed.
- (xi) "Owner" means the ArcelorMittal entity identified as Owner on the Execution Sheet.
- (xii) "Owner Companies" shall mean Owner and any person or entity directly or indirectly controlling, controlled by, or under common control of Owner.
- (xiii) "Owner's Authorized Representative" shall mean any person whom Owner designates to Environmental Service Contractor in writing as the Owner's Authorized Representative.
- (xiv) "Owner's Engineer" shall mean any person whom Owner designates to Environmental Service Contractor in writing as the Owner's Engineer.
- (xv) "Owner's Indemnitees" shall mean collectively the Owner, Owner Companies and their respective assigns, heirs, successors, directors, officers, and employees, and agents.
- (xvi) "Parties" shall mean Owner and Environmental Service Contractor.
- (xvii) The "Project" shall mean the general totality of all of Owner's and Environmental Service Contractor's activities contemplated in connection with this Environmental Service Contract.
- (xviii) The "Purchase Order" shall mean the purchase order issued by Owner to Environmental Service Contractor, as set forth in the Environmental Service Contractor Agreement, as a condition to and a necessary element of the creation of this Environmental Service Contract.
- (xix) "Subcontractor" shall mean any person or company contracting directly with or indirectly through Environmental Service Contractor at any tier to furnish Environmental Service Contractor with any services or goods and services under this Environmental Service Contract.
- (xx) "Supplier" shall mean any person or company contracting directly with or indirectly through Environmental Service Contractor to supply goods under this Environmental Service Contract.
- (xxi) The "Statement of Environmental Service Work" shall have the meaning specified in the Purchase Order applicable to this Environmental Service Contract.
- (xii) The "Environmental Service Work" shall have the meaning specified in the Purchase Order applicable to this Environmental Service Contract.

## SECTION 2. GENERAL PROVISIONS

- (a) These AMUSA-103 General Terms and Conditions Environmental Service Contracts contain provisions of general applicability to certain Environmental Service Work undertaken by any Owner Company, including without limitation any direct or indirect subsidiary.
- (b) This Environmental Service Contract represents the entire agreement of the Parties with respect to the subject matter hereof; and no agreement or understanding in any way modifying this Environmental Service Contract (including change orders) shall be binding upon Owner or Environmental Service Contractor unless made in a writing that both (i) states that it amends this Environmental Service Contract, and (ii) is signed by an authorized representative of each of Owner and Environmental Service Contractor. All other agreements or alleged agreements and any proposals leading up to this Environmental Service Contract are hereby superseded. Any other contracts between the Parties that have been previously executed to cover the performance of goods or services not covered by this Environmental Service Contract remain valid for the contemplated scope of such other contracts. Any reference whatsoever to, or any incorporation in any way whatsoever of, any bid, proposal, offer or quote of Environmental Service Contractor in any part of this Environmental Service Contract shall mean and include no more than the price, schedule, quantity and/or quality terms of Environmental Service Contractor's bid, proposal, offer or quote, as applicable, and shall expressly exclude any of Environmental Service Contractor's general terms and conditions of sale.
- (c) In addition to any other terms, conditions and provisions of this Environmental Service Contract, all Environmental Service Work at such facilities or on such projects as Owner may stipulate shall be performed under The National Maintenance Agreement (as known to Environmental Service Contractor) and any local addendum thereof, to the extent specified in the Purchase Order by means of attachment thereto of the applicable provisions of said National Maintenance Agreement.
- (d) Any captions used in this Environmental Service Contract are for convenience only and shall not be considered a part of or affect the construction or interpretation of any term, condition or provision of this Environmental Service Contract.
- (e) It is the intent of the Parties that whenever possible, each term, condition and provision of this Environmental Service Contract shall be interpreted in such a manner as to be effective and valid under applicable law, and that if any term, condition or provision of this Environmental Service Contract shall be rendered ineffective by or found to be invalid under applicable law, such term, condition or provision shall be deemed ineffective or invalid only to the minimum extent necessary, without invalidating the remainder of such provision or the remaining provisions of the Environmental Service Contract.
- (f) All documentary parts of this Environmental Service Contract are complementary; what is called for by one part is as binding as if called for by all. If Environmental Service Contractor finds a conflict, error or discrepancy in any parts of this Environmental Service Contract, Environmental Service Contractor shall notify Owner before proceeding with the Environmental Service Work affected thereby.
- (g) Except as otherwise expressly specified in this Environmental Service Contract, Environmental Service Contractor shall provide and pay for all goods, services, utilities and facilities necessary for the execution and timely completion of the Environmental Service Work.
- (h) The failure of either Party to enforce at any time any of the terms, conditions and provisions of this Environmental Service Contract or to require at any time performance by the other Party of any of the other Party's obligations shall in no way be construed to be a present or future waiver of such provisions or in any way to affect the validity of this Environmental Service

Contract or any part hereof, or the right thereafter to enforce each and every such term, condition and provision. The express waiver (whether one or more times) by either Owner or Environmental Service Contractor of any term, condition or provision of this Environmental Service Contract shall not constitute a waiver of any future obligation to comply with such term, condition or provision.

- (j) In the event any inconsistencies or discrepancies arise among any parts of this Environmental Service Contract the precedence is specified in the Execution Sheet.
- (k) Nothing herein requires Owner to order any goods or services from Environmental Service Contractor or confers upon Environmental Service Contractor any exclusive right to provide any goods or services to Owner.
- (l) Payment of undisputed portions of invoices shall not be withheld by Owner on account of the disputed portions, if any.
- (m) This Environmental Service Contract was arrived at through good faith, arms-length negotiations, and any ambiguity shall not be construed against either Party.
- (n) Unless expressly provided otherwise herein, nothing in this Environmental Service Contract is intended to confer any rights or remedies upon any persons other than Owner and Environmental Service Contractor and their respective successors and permitted assigns or to relieve or discharge the obligation or liability of any persons other than Owner and Environmental Service Contractor or to give any third person any right of subrogation, claim or cause of action against Owner or Environmental Service Contractor.

### **SECTION 3. SUSTAINABLE DEVELOPMENT; SAFETY**

- (a) Within the framework of sustainable development, Owner is strongly committed in terms of safety, health, social dialogue and environment. Environmental Service Contractor shall provide Owner with Environmental Service Work that wholly meets the safety, health and environmental rules specified by Applicable Laws, the Safety Handbook or by Owner itself. Moreover the principles stated in the United Nations Global Compact Treaty being of paramount importance for Owner, Environmental Service Contractor is invited to take all necessary steps in order to support the United Nations Global Compact Treaty (<http://www.unglobalcompact.org>).
- (b) Furthermore, during the whole performance of this Environmental Service Contract, Environmental Service Contractor shall comply and have its Subcontractors fully comply with all such rules and particularly with those required by Applicable Laws, the Safety Handbook or other rules especially applicable at the Job Site. Disregard for, or multiple or continued violations of, Applicable Laws, the Safety Handbook or any other applicable safety rules shall be deemed to be a material breach of this Environmental Service Contract. Safety at work, in particular safety of Owner's personnel and those of its suppliers, contractors, and visitors, is a mandatory priority for Owner, and as a fundamental value, no priority may override safety. As a consequence, Owner will not retain contractors failing to reach high safety requirements and not fully complying with Applicable Laws, the Safety Handbook and safety rules. Environmental Service Contractor fully endorses these policies and adopts them as its own, insofar as they relate to the performance of its obligations under this Environmental Service Contract.
- (c) Unless otherwise specified in the Purchase Order or directed by Owner, Environmental Service Contractor shall not control access to the Job Site. In connection with its performance of the

Environmental Service Work, Environmental Service Contractor shall continuously protect persons for whom Environmental Service Contractor is responsible and their property from injuries, damage or loss. Environmental Service Contractor's acceptance of the Purchase Order shall mean that Environmental Service Contractor has fully investigated the Job Site, the character of the Environmental Service Work and the conditions under which the Environmental Service Work must be performed and that Environmental Service Contractor represents that it will be able to meet the requirements of Applicable Laws, the Safety Handbook and other safety requirements in connection with performance of the Environmental Service Work.

- (d) Environmental Service Contractor shall use only duly inspected and certificated equipment and duly licensed operators where required.
- (e) Environmental Service Contractor shall furnish its personnel with all required protective equipment and enforce the use of such equipment. Owner shall have the right to bar access to Owner's premises or the Job Site of any person who does not use required protective equipment or otherwise comply in all respects with Applicable Laws, the Safety Handbook or other applicable safety rules. Environmental Service Contractor shall provide and maintain guard fences, lights and other protective facilities to the extent required by the Safety Handbook or any public authorities or as reasonably directed by Owner's safety personnel in connection with the performance of the Environmental Service Work.
- (f) Environmental Service Contractor shall (i) duly and immediately inform Owner of any accident, personal injury, property damage, accidental contamination, hazardous material, substance, product or waste as defined by Applicable Laws and/or pollution occurring on or nearby the Job Site noted or discovered by the Environmental Service Contractor during performance of the Environmental Service Work, and (ii) take all appropriate measures and actions to mitigate the consequences which arise or which may arise therefrom and for which Environmental Service Contractor is or may otherwise be liable under this Environmental Service Contract.
- (g) The Environmental Service Work shall only begin after the preparation of a prevention and safety plan by Owner, Environmental Service Contractor, and any Subcontractor or third party involved in accordance with Applicable Laws. Environmental Service Contractor's access to the Job Site shall be subject to (i) Environmental Service Contractor having previously obtained from Owner all required authorizations of the Environmental Service Work (in particular in relation to safety matters) according to the Safety Handbook and any other rules applicable to the Job Site, and (ii) all Environmental Service Contractor's staff (including its Subcontractors' staff) with access to the Job Site having previously and successfully attended a safety introduction meeting for the Environmental Service Work.
- (h) Except as expressly agreed in this Environmental Service Contract, Environmental Service Contractor shall monthly prepare, and release to Owner upon request, a report stating accident rates and gravity and frequency indicators or any other safety indicators agreed between the Parties. Environmental Service Contractor's rates and indicators shall fully comply with the ones agreed between the Parties throughout the duration of the Environmental Service Contract. If not, Environmental Service Contractor shall propose to Owner an action plan providing corrective measures to remedy the non-compliance and shall implement the action plan. Notwithstanding this obligation, upon Owner's request, the Parties shall meet and Environmental Service Contractor shall take all necessary actions to remedy the non-compliance. If despite a reasonable time period after the deployment of the action plan, the safety rates remain over the expected levels, Owner may in its sole discretion consider, as set forth in Section 18(b) hereof, Environmental Service Contractor's non-compliance to be a cause for termination of this Environmental Service Contract for Environmental Service Contractor's breach.

- (i) Upon Owner's request, Environmental Service Contractor shall attend all safety meetings held by Owner relating to the Environmental Service Work.

#### SECTION 4. COMPLIANCE LAWS AND POLICIES

- (a) Environmental Service Contractor shall unconditionally familiarize itself with and comply with all Applicable Laws. Environmental Service Contractor shall strictly comply with all Applicable Laws in performing the Environmental Service Work; and all goods or services supplied by Environmental Service Contractor shall in all respects conform to the requirements of all Applicable Laws. Unless otherwise expressly provided elsewhere in this Environmental Service Contract, Environmental Service Contractor shall assist Owner in securing and maintaining all applicable permits and certifications; and Environmental Service Contractor shall comply with all reporting requirements required by any Applicable Laws. Environmental Service Contractor shall provide Owner with copies of all documents submitted to any governmental entity in connection with the Environmental Service Work or in compliance with any Applicable Laws.
- (b) In the event a change is enacted to any Applicable Laws after the effective date of this Environmental Service Agreement (a "Change in Law") (other than a known change scheduled on or before the effective date of this Environmental Service Contract to become applicable to the Environmental Service Work) and such Change in Law directly and materially adversely affects Environmental Service Contractor's performance of its obligations under this Environmental Service Contract, Contractor shall notify Owner in writing and make a reasonable proposal for complying with the Change in Law, including the estimated cost thereof. During the sixty (60) calendar days following delivery of Environmental Service Contractor's notice and proposal, the Parties shall negotiate in good faith to reach agreement as to (i) whether the Change in Law should be challenged, including the scope and manner of such challenge; (ii) the most economical and commercially prudent methods for complying with the Change in Law and; (iii) an equitable allocation of any increased costs that result from complying with the Change in Law and an equitable adjustment of the Completion Date as necessary to allow Environmental Services Contractor to comply with the Change in Law; provided, however, that Owner shall not be liable for any Change in Law that is an increase in an income-related or a generally applicable tax or similar cost that increases Environmental Service Contractor's overhead expenses and is not a tax applicable only to the Environmental Service Work.
- (c) Environmental Service Contractor shall take all necessary steps, in accordance with good industry practice, to prevent any fraudulent activity in connection with this Environmental Services Contract. Environmental Service Contractor shall notify Owner immediately if it has reason to suspect that any such fraudulent activity has occurred or is occurring or is likely to occur.
- (d) Environmental Service Contractor shall not offer or give, or agree to give, to any employee, agent, servant or representative of Owner any gift, commission or other consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Environmental Service Contract or any other agreement(s) with Owner, or for showing or refraining from showing favor or disfavour to any person in relation to this Environmental Service Contract or any other agreement(s) with Owner.
- (e) Environmental Service Contractor represents that it has not paid commission, nor has agreed to pay commission to any employee, agent, servant or representative of Owner in connection with this Environmental Service Contract or any other agreement(s) with Owner.



- (f) Where Environmental Service Contractor or its employees, servants, Subcontractors, Suppliers or agents or anyone acting on Environmental Service Contractor's behalf, engages in conduct prohibited by the provisions herein in relation to any Environmental Service Contract or any other agreement(s) with Owner, Owner shall be entitled to:
  - (i) terminate this Environmental Service Contract and/or said other agreement(s) and recover from Environmental Service Contractor the amount of any loss suffered by Owner resulting from such termination; or
  - (ii) recover in full from Environmental Service Contractor any other loss sustained by Owner in consequence of any breach of these Sections 4(c), (d) and (e) whether or not this Environmental Service Contract and/or said other agreement(s) have been terminated.
- (g) Environmental Service Contractor represents that it has read and understands Owner's "Code of Business Conduct," which is attached hereto as Appendix 4(g) and that it has not taken any action inconsistent with or contrary to Owner's Code of Business Conduct in obtaining this Environmental Service Contract. Environmental Service Contractor covenants that it shall not take any action inconsistent with or contrary to Owner's Code of Business Conduct in the performance of this Environmental Service Contract. Environmental Service Contractor may be in material breach of this Environmental Service Contract for any violation of the foregoing representations or covenant. In the event that Environmental Service Contractor learns of any violation or alleged violation of Owner's Code of Business Conduct, Contractor shall report the violation or alleged violation by calling the Compliance Hotline Number, which is 1-888-242-7305.
- (h) Any clause required under any Applicable Law to be included in this Environmental Service Contract shall be deemed to be incorporated by reference into this Environmental Service Contract.

## **SECTION 5. SCOPE OF ENVIRONMENTAL SERVICE WORK**

In the event of any disagreement between Environmental Service Contractor and Owner concerning the Environmental Service Work to be performed, Environmental Service Contractor shall nevertheless perform in accordance with the instructions of Owner's Engineer, and the disagreement shall be resolved in accordance with the disputes resolution procedures set forth in Section 9 below. Environmental Service Contractor shall not make any claim for any adjustments on account of a disagreement concerning the Environmental Service Work to be performed unless prior to the commencement of such Environmental Service Work for which additional fee or time is required, Environmental Service Contractor had given Owner written notice of Environmental Service Contractor's intentions to make such claim and an estimate, in as much detail as the circumstances reasonably permit, of the amount thereof.

## **SECTION 6. CHANGED ENVIRONMENTAL SERVICE WORK; CHANGE ORDERS**

- (a) "Changed Environmental Service Work" shall mean the provision of goods or services in addition to, less than and/or different from the goods or services included within the Environmental Service Work. At any time prior to the completion of the Environmental Service Work, Owner may require Environmental Service Contractor to perform Changed Environmental Service Work.
- (b) Prior to Environmental Service Contractor's commencement of any Changed Environmental Service Work, Owner and Environmental Service Contractor shall reach agreement on any

adjustments in the Contract Price and/or any other adjustments including but not limited to a change in the Contract Schedule reasonably resulting from the Changed Environmental Service Work. Upon such agreement, Owner shall issue necessary and customary documentation (a "Change Order") describing the Changed Environmental Service Work and any such adjustments, the payment for which shall be separately invoiced by Environmental Service Contractor. In the event Owner and Environmental Service Contractor do not reach such agreement, the disagreement shall be resolved in accordance with any disputes resolution procedure set forth in Section 9 below. Upon Owner's issuance of a Change Order, Environmental Service Work for all purposes under this Environmental Service Contract shall thereafter mean the Environmental Service Work as modified by the Change Order.

- (c) Environmental Service Contractor shall not make any claim for any adjustments on account of Changed Environmental Service Work unless prior to the commencement of the Changed Environmental Service Work giving rise to such claim Environmental Service Contractor had given Owner written notice of Environmental Service Contractor's intentions to make such claim and an estimate, in as much detail as the circumstances reasonably permit, of the amount thereof.
- (d) In the event that Owner and Environmental Service Contractor agree that it is necessary to perform any Changed Environmental Service Work on a time and material basis, Environmental Service Contractor shall supply Owner with a time and material rate schedule that excludes any charges, rates or costs for all items already included in the charges, rates or costs for unchanged Environmental Service Work, which rate schedule shall be subject to approval by the Owner prior to commencement of the Changed Environmental Service Work.
- (e) Environmental Service Contractor shall promptly give written notice to Owner of (i) subsurface or latent physical conditions at the Job Site which differ materially from those indicated in the Environmental Service Contract, or (ii) unknown physical conditions at the Job Site, of an unusual nature which differ from those ordinarily encountered and generally recognized as inherent in work of the character called for in the Purchase Order. Owner will investigate the conditions promptly after receiving the notice. If the conditions do so differ and cause an increase in the cost of or time required to perform the Environmental Service Work, whether or not changed as a result of the conditions, an equitable adjustment shall be made and the Contract Price and/or Contract Schedule modified accordingly.

## **SECTION 7. TIME OF PERFORMANCE**

- (a) Unless otherwise specified in the Contract Schedule that time is of the essence, time is not of the essence of this Environmental Service Contract. Environmental Service Contractor shall complete the Environmental Service Work as expeditiously as is consistent with professional skill and care and the orderly progress of the Environmental Service Work on or before the Completion Dates specified in this Environmental Service Contract, subject to these AMUSA-103 General Terms and Conditions Environmental Service Contracts.
- (b) Environmental Service Contractor shall bear the cost of any premium time authorized by Environmental Service Contractor or necessary in order to perform the Environmental Service Work within the time for performance set forth by the Environmental Service Contract, unless Environmental Service Contractor can demonstrate that a delay requiring premium time was caused by Force Majeure (as defined below). In the event Owner directs Environmental Service Contractor in writing to Environmental Service Work at a faster rate so as to complete the Environmental Service Work prior to the Completion Date, Owner shall issue a Change Order reimbursing Environmental Service Contractor for actual premium time, at the rates applicable thereto, on a direct out-of-pocket basis, without further mark-up. Environmental Service Contractor shall invoice separately for any such reimbursable premium time.

## **SECTION 8. FORCE MAJEURE**

Neither Party shall be liable for delays in the performance of its obligations caused by the following conditions of "Force Majeure," namely, acts of God or the public enemy, including an embargo, war, fire, flood, earthquake, substantially changed site conditions, actions or inactions of governmental authorities, latent site conditions, terrorist attack, epidemic or other calamity, or other cause beyond the reasonable control of the affected Party; provided, however, that it is understood between the Parties that seasonable but non-severe weather conditions or inability to procure labor or materials for any reason other than Force Majeure shall not constitute an excuse for failure to perform the Environmental Service Work within the time for performance required by this Environmental Service Contract. Any Party wishing to claim Force Majeure as an excuse for non-performance or failure of timely performance must promptly notify the other Party in writing of (i) the nature of the Force Majeure being claimed, (ii) its best estimate of the number of days of delay expected to result therefrom, (iii) the steps it proposes to take to reduce to the minimum the number of days of delay, and (iv) the date on which the Force Majeure claimed as an excuse for non-performance terminates. The sole remedy for any permitted delays resulting from Force Majeure shall be an extension of the period of time for performance of those obligations affected by the Force Majeure occurrence for the minimum time period necessary to overcome the effect of such Force Majeure. If a claimed Force Majeure event exceeds more than 30 total days within a six (6) month period the Parties agree to meet to decide the next course of action, which may include termination of this Environmental Service Contract pursuant to Section 18 or 19.

## **SECTION 9. DISPUTES RESOLUTION**

- (a) Any dispute arising under this Environmental Service Contract shall be resolved by the decision of Owner's Authorized Representative, whose decision shall be final; provided, however, that either Party may appeal the decision of Owner's Authorized Representative in accordance with any remedies or actions available by law to enforce contracts or for breach of contract. Pending any such remedies or legal actions, the Parties shall comply with the decision of Owner's Authorized Representative except to the extent Environmental Service Contractor explains to Owner reasonably in writing Environmental Service Contractor's conclusion that such compliance would be contrary to the applicable standards of professional care or to Applicable Law, to which Owner agrees.
- (b) This Environmental Service Contract shall be governed by the Applicable Laws of the State in which the Job Site is located, without regard to that State's principles of conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to any goods or services delivered or performed under this Environmental Service Contract. The exclusive venue for any legal actions brought by either Party under this Environmental Service Contract shall be the courts of applicable jurisdiction in the State where the Job Site is located.

## **SECTION 10. SUBCONTRACTORS AND SUPPLIERS**

- (a) Owner shall have the right to approve all Subcontractors employed for the Environmental Service Work and Suppliers of all major items of material and equipment to be used in performing the Environmental Service Work. If requested by Owner, Environmental Service Contractor shall provide Owner the identification of all Subcontractors and Suppliers that Environmental Service Contractor intends to engage in connection with the Environmental Service Work. All Subcontractors and Suppliers shall be subject to the terms, conditions and provisions of this Environmental Service Contract, and Environmental Service Contractor shall

cause such terms, conditions provisions to be included in all subcontracts. Owner, at its discretion, may require that Environmental Service Contractor provide Owner with the form (without prices) of any subcontract or other agreement with any Subcontractor or Supplier before the same is awarded. Nothing contained in the Environmental Service Contract shall be construed so as to create any contractual relation between any Subcontractor or Supplier and Owner, nor shall it create any obligation on the part of Owner to pay or guarantee payment of any sums of money to any Subcontractor or Supplier.

- (b) It is the Owner's policy to seek out and utilize the services of minority owned businesses in a manner consistent with their growing capabilities. In keeping with this policy, Environmental Service Contractor shall employ reasonable efforts to utilize minority owned businesses as Subcontractors and Suppliers.

#### **SECTION 11. ENVIRONMENTAL SERVICE CONTRACTOR PERSONNEL**

- (a) Any employee of Environmental Service Contractor that is objectionable or unsatisfactory to Owner shall be removed from the Environmental Service Work and replaced by an employee satisfactory to Owner.
- (b) Environmental Service Contractor shall indemnify, defend, release and hold Owner's Indemnitees harmless from and against all costs and liabilities arising from any Claims by any labor organization or collective bargaining unit representing, claiming to represent, or attempting to organize Environmental Service Contractor's employees in connection with the Environmental Service Work or otherwise.
- (c) Upon request, Environmental Service Contractor shall provide to Owner proof of pre-hire 10 panel drug screening per the United States Department of Health and Human Services and/or Department of Transportation regulations for all Environmental Service Contractor and Subcontractor personnel, inclusive of supervision and site management, who shall enter onto any real property owned or controlled by any of Owner's Indemnitees. Where applicable, the Building and Construction Trades Department, AFL-CIO, National Drug and Alcohol Testing Program and Policy ("BCTD Program") will be honored and administered. Periodic validation of compliance will be in accordance with the BCTD Program or Owner stipulated requirements for that facility. In the event of an accident on any real property owned or controlled by any of Owner's Indemnitees or for other reasonable cause, Owner shall have the right under this Environmental Service Contract to direct the drug screening of any Environmental Service Contractor or Subcontractor employee, agent or invitee.
- (d) Environmental Service Contractor hereby represents that it has notified Owner of any Current or Former Owner's Employee or Relative whom Environmental Service Contractor used to sell or market this Environmental Service Contract to Owner. In the event Environmental Service Contractor's representation is false, Owner shall have the right in its sole discretion to deem Environmental Service Contractor in material breach of this Environmental Service Contract. Environmental Service Contractor shall advise Owner in writing before Environmental Service Contractor uses any Current or Former Owner's Employee or Relative for any other activities in connection with Environmental Service Contractor's performance of the Environmental Service Work, and Owner shall have the right in its sole discretion to deem any Current or Former Owner's Employee or Relative objectionable or unsatisfactory to Owner.

#### **SECTION 12. OWNER-FURNISHED ITEMS**

- (a) Except as otherwise expressly set forth in Section 12(b) below or in the Purchase Order, Owner shall have no obligations in respect to the performance of the Environmental Service Work.
- (b) Owner shall
  - (i) (1) provide to Environmental Service Contractor, in writing, information relating to Owner's requirements for the Environmental Service Work; (2) identify to Environmental Service Contractor, the location of subsurface structures, such as pipes, tanks, cables and utilities to the extent known to Owner; (3) notify Environmental Service Contractor of any potential hazardous substances or other health and safety hazard or condition to the extent known to Owner existing on or near the Job Site; (4) give Environmental Service Contractor prompt written notice of any suspected deficiency in the Environmental Service Work; and (5) with reasonable promptness, provide required approvals and decisions. In the event that Environmental Service Contractor is requested by Owner or is required by subpoena to produce documents or give testimony in any action or proceeding to which Owner is a party and Environmental Service Contractor is not a party, then Environmental Services Contractor shall cooperate reasonably with Owner in such production and in the preparation of such testimony, and Owner shall pay Environmental Service Contractor for any time and expenses required in connection therewith, including reasonable attorney's fees, consistent with Applicable Laws.
  - (ii) provide access to water and electrical power as available from existing utility outlets in the area of the Job Site and as available within the capacity of the existing utility systems. Environmental Service Contractor shall supply all other utilities, including facilities required to feed Environmental Service Contractor's equipment. Such facilities shall be located as designated by the Owner's Engineer. After the Environmental Service Work is complete, Environmental Service Contractor shall remove any facilities installed by Environmental Service Contractor under this provision and clean up the Job Site to Owner's satisfaction.
  - (iii) provide access to the Job Site for Environmental Service Contractor's employees, equipment and material. Due to limited parking facilities, only Environmental Service Contractor supervisors will be permitted to drive personal vehicles into the Job Site. All other Environmental Service Contractor employees, Subcontractors and Suppliers shall be transported to the Job Site by Environmental Service Contractor, unless other arrangements are approved in advance in writing by the Owner's Engineer.
  - (iii) provide to Environmental Service Contractor, subject to requirements of confidentiality, all available reports, data, studies, plans, specifications, documents and other information provided by others and in Owner's possession that are relevant to the Environmental Service Work. Environmental Service Contractor shall be entitled to rely reasonably, subject to standards of due care, upon the reports, data, studies, plans, specifications, documents and other information provided by Owner or others acting on Owner's behalf, and Environmental Service Contractor assumes no responsibility or liability for the accuracy or completeness of such. Environmental Service Contractor shall notify Owner of any identified inaccurate or incomplete information that is provided. Owner waives any claim against Environmental Service Contractor resulting from errors, omissions, or inaccuracies in reports, data, studies, plans, specifications, documents and other information provided to Environmental Service Contractor by Owner or others acting on Owner's behalf. Environmental Service Contractor shall be responsible only for the accuracy of the data, interpretations and recommendations it generates or makes. Owner disclaims any representation or warranty as to the accuracy or completeness of any information on which Environmental Service Contractor should not reasonably rely based on standards of due care.

#### SECTION 13. USE OF OWNER'S PROPERTY

Environmental Service Contractor shall not use any Owner Company employees to operate machinery, equipment or tools and shall not use any property of any Owner's Company in the performance of any Environmental Service Work, including without limitation cranes, powered industrial trucks, safety equipment, environmental monitoring equipment, medical equipment, lighting, mechanical and electrical equipment, ladders, and scaffolding, except upon Environmental Service Contractor's prior written request and Owner's written approval thereof. If Environmental Service Contractor uses any property of Owner such property shall be deemed to be under the sole custody, control and risk of Environmental Service Contractor during the period of Environmental Service Contractor's use.

#### **SECTION 14. DUTY OF CARE AND REPRESENTATIONS**

- (a) Environmental Service Contractor hereby represents to Owner that all Environmental Service Work shall (i) conform with the Purchase Order and any other requirements regarding quality contained in this Environmental Service Contract; and (ii) conform to all applicable permits, regulations and standards imposed on any or all of Owner, Owner's Indemnitees and Environmental Service Contractor under Applicable Law.
- (b) Environmental Service Contractor represents that it shall perform the Environmental Services in a way consistent with the performance of similar services by similar professionals in the same location and at the same time.
- (c) Any Environmental Service Work not conforming with the foregoing representations during or after completion of the Environmental Service Work shall at Owner's request and at Owner's convenience, but at Environmental Service Contractor's sole expense, be re-performed by Environmental Service Contractor.
- (d) Owner recognizes that opinions relating to environmental, geologic, and geotechnical conditions are based on limited data and that actual conditions may vary from those encountered at the times and locations where the data are obtained, despite the use of due professional care. Environmental Service Contractor's representations shall not cover defects in goods or services to the extent caused by Owner or by a third party locator company having responsibility for providing information or warning regarding the location of underground utilities, pipes, structures or obstructions.
- (e) Environmental Service Contractor is not responsible for designing or advising on or otherwise taking measures to prevent or mitigate the effect of any act of terrorism or any action that may be taken in controlling, preventing, suppressing or in any way relating to an act of terrorism.
- (f) Owner recognizes that the use of investigative equipment and practices may unavoidably alter the existing site conditions and affect the environment in the area being studied, despite the use of reasonable care.
- (g) The remedies for breach of the foregoing representations and warranties are non-exclusive, cumulative and in addition to any other rights and remedies available to Owner.

#### **SECTION 15. INSPECTIONS**

- (a) All portions of the Environmental Service Work shall be subject at all times to inspection by Owner at any and all places where the Environmental Service Work may be performed; provided, however, that Owner shall not unreasonably interfere with Environmental Service Contractor's performance of the Environmental Service Work. Environmental Service Contractor shall provide Owner with all necessary and reasonable information concerning the Environmental Service Work. Neither Owner's right of inspection, whether or not exercised,

nor any such inspection, shall relieve Environmental Service Contractor of its responsibilities for the proper performance of the Environmental Service Work.

- (b) The good faith decision of the Owner's Engineer that any services, goods or materials do not in all respects comply with this Environmental Service Contract shall be final and conclusive, subject to the disputes resolution procedure set forth in Section 9 above. No failure on the part of the Owner's Engineer to inspect or reject any goods or services at any time shall be deemed an acceptance of any defective goods or services, nor shall it prevent subsequent inspection or rejection. Environmental Service Contractor shall promptly remove from the Job Site all goods rejected by Owner, whether incorporated in the Environmental Service Work or not; and Environmental Service Contractor shall promptly replace all such rejected goods at its own expense.
- (c) When requested by Owner, any part of the Environmental Service Work that was covered or otherwise concealed without reasonable opportunity for inspection by Owner must be uncovered or otherwise made available for inspection at Environmental Service Contractor's expense. If Owner requests the uncovering of any Environmental Service Work which Owner previously inspected or was afforded reasonable opportunity to inspect, Owner shall bear the cost of uncovering and re-replacing or re-performing the affected part of the Environmental Service Work unless any defects or non-compliance with the Environmental Service Contract are found, in which case all costs shall be borne by Environmental Service Contractor.
- (d) All tests and inspections, if any, that may be required by public authorities shall be made by properly qualified persons or testing laboratories mutually acceptable to Environmental Service Contractor, Owner and such public authorities, and the results shall be certified as may be required and copies delivered to all parties.
- (e) Neither payment to Environmental Service Contractor nor any comments or suggestions or any interim, preliminary, informal or provisional approvals, whether written or oral, by any Owner employees or agents, including without limitation by the Owner's Engineer, shall in any respect be taken as an approval of or admission by Owner or by the Owner's Engineer of the quality of the Environmental Service Work or any part of the Environmental Service Work and shall in no way release Environmental Service Contractor from its representations, warranties and other obligations under this Environmental Service Contract.

## **SECTION 16. AUDIT RIGHTS AND TESTING**

Owner shall have audit rights with respect to the Environmental Service Work as follows:

- (a) The right of audit may be exercised at Environmental Service Contractor's facilities by designated representatives of Owner at any time during normal Environmental Service Contractor's working hours and from time to time during the duration of this Environmental Service Contract, and for a period of three (3) years after expiration of the Environmental Service Contract and final payment therefor; provided, however, that the Environmental Service Contractor's books and records pertaining to Environmental Service Work performed for a lump sum price determined prior to commencement of Environmental Service Work or other similarly priced basis shall not be subject to audit except to the extent necessary to establish that the Environmental Service Work was performed, and when it was performed, and to the extent that any Changed Environmental Service Work is priced on other than a lump sum or similarly priced basis.
- (b) Environmental Service Contractor shall maintain during the course of the Environmental Service Work, and retain, for not less than three (3) years after completion and acceptance by Owner of the Environmental Service Work, complete and accurate records of all of Environmental

Service Contractor's costs which are chargeable to Owner and which are subject to audit pursuant to this Environmental Service Contract. The records to be maintained and retained by Environmental Service Contractor and made available for audit by Owner's designated representatives shall include without limitation:

- (i) Purchase orders, paid invoices and canceled checks for materials purchased and for any Subcontractors' or other third parties' charges.
  - (ii) Invoices for purchases, receiving and issuing documents, and all other unit-inventory records for Environmental Service Contractor's stores stock or capital items.
  - (iii) All safety and environmental compliance records for purposes of compliance with Applicable Laws and compliance with Owner's safety and environmental compliance programs.
  - (iv) Amounts paid by Environmental Service Contractor for labor.
  - (v) Environmental Service Contractor's entertainment and other similar expenses related to the Owner's Indemnitees.
- (c) Owner shall bear the expense of any audit unless otherwise agreed by the parties or unless the audit discloses errors in Owner's favor in excess of 2% of the Contract Price. Any overcharges or undercharges disclosed by an audit will be subject to reimbursement.
- (d) This Section 16 shall apply to Subcontractors.

## **SECTION 17. NOTICES**

All notices, consents, requests, reports, communication and other documents required or permitted to be given to a Party under or pursuant to this Environmental Service Contract shall be in writing and shall be deemed to have been fully given to the Party (i) upon personal delivery confirmable in writing, or (ii) the next business day if sent via a nationally recognized overnight courier service, or (iii) three (3) days after being sent by certified mail, postage prepaid, via the United States Postal Service, or (iv) upon receipt by e-mail or facsimile machine, if receipt by e-mail or facsimile is confirmed and if a confirmation copy is also immediately sent in the manner provided in (i), (ii) or (iii) above, in each case to the address set forth on the Execution Sheet to the attention of the signatory until changed. A Party may change the address for the receipt of notices, consents, requests, reports, communications and other documents at any time by giving written notice thereof to the other Party hereto; provided, however, that such address shall at all times be an address located in the United States of America.

## **SECTION 18. OWNER'S RIGHT TO TERMINATE**

- (a) Owner may terminate, in whole or in part, this Environmental Service Contract for Owner's convenience at any time upon written notice to Environmental Service Contractor. Environmental Service Contractor shall be entitled to all of its reasonable costs for performance of this Environmental Service Contract up to the date of termination. Owner shall reimburse Environmental Service Contractor for its reasonable out-of-pocket expenses incurred in performing its post-termination obligations, including reasonable out-of-pocket cancellation costs actually paid in accordance with Environmental Service Contractor's obligations to its Subcontractors or Suppliers. In no event shall Environmental Service Contractor be entitled to receive unrealized profits as a result of such termination. In the event of a termination for Owner's convenience, Environmental Service Contractor shall:



- (i) stop performing all Environmental Service Work on the effective date of the notice of termination;
  - (ii) place no further order or subcontract for materials, services or facilities;
  - (iii) terminate all orders and subcontracts;
  - (iv) upon receipt of all monies legally due to Environmental Service Contractor hereunder, transfer title to Owner of all Environmental Service Work in progress, completed Environmental Service Work, and goods produced as part of or acquired in connection with the performance of the Environmental Service Work;
  - (v) deliver to Owner such completed or partially completed plans, drawings and other information that, if the Environmental Service Contract had been completed, would have been required to be furnished (or returned) to Owner, however Environmental Service Contractor shall have no liability for incomplete plans, drawings and other information or the use thereof by Owner;
  - (vi) deliver to Owner a list of vendors, Suppliers and Subcontractors that have furnished materials, equipment or services in connection with the Environmental Service Work; and
  - (vii) take such steps as Environmental Service Contractor reasonably may deem appropriate to effect an orderly closing down of the Environmental Service Work.
- (b) If Environmental Service Contractor shall persistently or repeatedly fail or refuse to diligently perform the Environmental Service Work or shall fail to make prompt payment to its Subcontractor or for materials or labor properly performed, or shall disregard Applicable Laws or safety considerations or the instructions of Owner or shall otherwise be in material breach of this Environmental Service Contract, then Owner, without prejudice to any other right or remedy it may have, may terminate this Environmental Service Contract upon written notice to Environmental Service Contractor and may take possession and control of the Environmental Service Work and may finish the Environmental Service Work. In the event of such termination, Environmental Service Contractor shall:
- (i) stop performing all Environmental Service Work on the effective date of the notice of termination;
  - (ii) place no further order or subcontract for materials, services or facilities;
  - (iii) at Owner's election, terminate or assign to Owner all orders and subcontracts;
  - (iv) deliver to Owner such completed or partially completed plans, drawings and other information that, if the Environmental Service Contract had been completed, would have been required to be furnished (or returned) to Owner;
  - (v) deliver to Owner a list of vendors, Suppliers and Subcontractors that have furnished materials, equipment or services in connection with the Environmental Service Work.
- (c) Upon termination pursuant to Section 18(b), Environmental Service Contractor shall be entitled to receive payment for the Environmental Service Work satisfactorily completed up to the date of termination. If the unpaid balance of the Contract Price shall exceed the Owner's reasonable and additional costs of finishing the Environmental Service Work, such excess shall be paid to Environmental Service Contractor. If such Owner's costs shall exceed the unpaid

balance of the Contract Price, Environmental Service Contractor shall pay the reasonable and additional difference to Owner promptly after receiving a written demand therefor.

- (d) Environmental Service Contractor will obligate its Suppliers and Subcontractors to the same conditions with respect to termination as those applicable to Environmental Service Contractor as set forth above.

#### **SECTION 19. ENVIRONMENTAL SERVICE CONTRACTOR'S RIGHT TO TERMINATE**

Environmental Service Contractor shall have the right to terminate this Environmental Service Contract if, at any time after thirty (30) days written notice, Owner fails to comply with a material provision of this Environmental Service Contract. Any such termination shall be deemed to be a termination for Owner's convenience pursuant to Section 18(a) above. Environmental Service Contractor may suspend Environmental Service Work for non-payment of undisputed invoices rather than terminate the Environmental Service Contract.

#### **SECTION 20. NO LIENS; NO THIRD PARTY BENEFICIARIES**

- (a) Provided all amounts legally due Environmental Service Contractor under this Environmental Service Contract have been paid in full, Environmental Service Contractor hereby releases and waives on behalf of itself and its employees and, to the extent it is legally possible to do so, its Suppliers and Subcontractors and their respective employees, the right to file, establish or assert any lien upon any property of any of the Owner Companies in connection with any goods, services or labor supplied or performed in connection with this Environmental Service Contract, and Environmental Service Contractor shall take all actions and provide for execution of any documents as are necessary in Owner's opinion to effect this release and waiver. At Owner's request, prior to engaging any Subcontractor or Supplier in connection with this Environmental Service Contract, Environmental Service Contractor shall obtain an executed Final Release and Waiver of Right to Lien from such Supplier or Subcontractor conforming to Exhibit A/AMUSA-103 Environmental Service Contracts attached hereto. As a condition precedent to each payment otherwise due under this Environmental Service Contract, Environmental Service Contractor shall first deliver to Owner a fully executed Final Release and Waiver of Right to Lien from each Supplier and Subcontractor who has supplied or performed any goods or services for which payment is sought.
- (b) Provided all amounts legally due Environmental Service Contractor under this Environmental Service Contract have been paid in full, Environmental Service Contractor shall take all actions available at, or required by, law to preclude Suppliers and Subcontractors at any tier and any of their employees from asserting or attempting to assert any lien against Owner in connection with the Environmental Service Work in contravention of this Environmental Service Contract.
- (c) Provided all amounts legally due Environmental Service Contractor under this Environmental Service Contract have been paid in full, Environmental Service Contractor shall immediately satisfy and discharge and shall indemnify, defend and hold harmless Owner from and against all liens and Claims related to liens therefor in connection with the Environmental Service Work or the performance thereof. If any such lien or Claim related to such lien therefor shall at any time be filed or asserted against any property of any Owner Companies, Environmental Service Contractor shall at its own expense immediately take all such action as is necessary to remove or satisfy such lien. In addition, Environmental Service Contractor shall immediately reimburse Owner for all costs or expenses incurred by Owner in order to discharge or contest such lien or Claim related to such lien therefor, including without limitation reasonable attorney's fees, expert fees and court costs. No payment by Owner or acceptance of any goods or services supplied or performed or improvements constructed pursuant to this Environmental Service

Contract shall constitute a waiver of Environmental Service Contractor's obligation to indemnify, defend and hold harmless.

- (d) Notwithstanding this Section or any other term, condition or provision of this Environmental Service Contract, nothing in this Environmental Service Contract shall create, establish or imply the existence or right of any third-party beneficiary hereunder. No third party, except in connection with submittals to governmental agencies, shall be given the right to rely on Environmental Service Contractor opinions rendered in connection with the Environmental Service Work without the prior written consent of Environmental Service Contractor.

## **SECTION 21. FINANCIAL CONDITION AND GUARANTY BONDS**

- (a) Environmental Service Contractor represents to Owner that its financial condition is and will be sufficient to enable it to perform and complete satisfactorily all of its obligations under this Environmental Service Contract; and Environmental Service Contractor shall at Owner's request furnish financial statements evidencing said sufficient financial condition. Environmental Service Contractor also represents that its financial statements furnished to Owner, if any are required to be submitted to Owner, are prepared in accordance with general accounting principles applied on a consistent basis and such financial statements accurately describe Environmental Service Contractor's financial condition.
- (b) Notwithstanding subsection (a) of this Section, prior to the commencement of the Environmental Service Work, Environmental Service Contractor shall furnish, if requested by Owner in the Purchase Order and agreed to by Environmental Service Contractor, a bond with such surety or sureties acceptable to Owner covering the faithful performance of this Environmental Service Contract by Environmental Service Contractor and the payment of all obligations of Environmental Service Contractor arising hereunder. In the event that Owner requests such a bond, Owner shall pay all costs, expenses and premiums required to be paid in connection therewith, in addition to any other sum or sums required to be paid by Owner under this Environmental Service Contract.

## **SECTION 22. INDEMNIFICATION, DAMAGES, AND LIABILITIES**

- (a) Environmental Service Contractor expressly agrees to indemnify, defend and save harmless the Owner's Indemnitees, up to \$5,000,000 in the aggregate or in an amount equal to Environmental Service Contractor's insurance limits inclusive of any deductibles and self-insured retention that Environmental Service Contractor is required to carry under Section 23, whichever is greater (unless a different amount is agreed in a separate writing between Owner and Environmental Service Contractor), from and against any and all Claims for employee injury, illness, death or property damage made by Environmental Service Contractor or any of its Subcontractors or any employee, agent or invitee of Environmental Service Contractor or any of its Subcontractors by reason of any act or omission, whether negligent or otherwise, including without limitation concurrent, joint, comparative, active or passive negligent acts or omissions, on the part of any of the Owner's Indemnitees or the condition of the Job Site or other property of any of the Owner's Indemnitees or otherwise unless caused by the negligence or willful misconduct of an Owner Indemnitee; and, to the extent it may relate to said employee injuries, illness, death or property damages, Environmental Service Contractor specifically waives any Environmental Service Workers Compensation statutory immunity that it might otherwise attempt to claim as a defense against Owner's Indemnitees' enforcement of the foregoing indemnity. Environmental Service Contractor shall further indemnify, defend and save harmless Owner's Indemnitees from and against any and all Claims made by any person or persons to the extent caused by any willful misconduct or negligent act or omission on the part of Environmental Service Contractor or any of its Subcontractors or any employee, agent or

invitee of Environmental Service Contractor or any of its Subcontractors, or any breach or alleged breach of any statutory duty for which liability is imposed on any of the Owner's Indemnitees under Applicable Laws because of the unexcused failure of Environmental Service Contractor to perform this Environmental Service Contract in accordance with its terms.

- (b) In the event of any Claim for which Environmental Service Contractor has a duty under Section 11(b), 20(c) or 22(a) to indemnify, defend or save harmless, Environmental Service Contractor shall indemnify Owner's Indemnitees for any and all direct damages and costs including, without limitation, any judgment, attorneys' fees, and costs. Environmental Service Contractor expressly acknowledges that it may be joined as an additional or third-party defendant in any action, at law or otherwise, in which the employee or employees of Environmental Service Contractor or any other person, their heirs, assigns or anyone otherwise claiming to be entitled to receive damages by reason of actual or alleged injury, illness, death or loss of or damage to property brings an action against Owner's Indemnitees in respect thereof, to the extent set forth in paragraph (a) above. In the event Environmental Service Contractor fails or refuses to indemnify, defend and save harmless as agreed to in this Environmental Service Contract, then, in addition to any other damages allowable by law, Environmental Service Contractor shall be liable to Owner for the costs (including without limitation reasonable attorney's fees) of enforcing Environmental Service Contractor's agreement to indemnify, defend and save harmless.
- (c) In any jurisdiction wherein Environmental Service Contractor's agreements to indemnify, defend and save harmless Owner's Indemnitees against the consequences of Owner's negligence would be void or unenforceable, including without limitation Owner's Indemnitees' 100% negligence, it is nevertheless the intent of the Parties that Environmental Service Contractor's agreements to indemnify, defend and save harmless shall be interpreted to require Environmental Service Contractor to indemnify, defend and save harmless Owner's Indemnitees to the fullest extent that agreements to indemnify, defend and hold harmless are allowed to be enforced under applicable law, including without limitation Owner's Indemnitees' concurrent or contributory negligence, with regard to injury, illness or death to Environmental Service Contractor's employees, but not to exceed the limit of liability set forth in paragraph (a) above.
- (d) The indemnification obligation of Environmental Service Contractor shall not be limited or affected in any way by any claims or benefits paid or payable by or on behalf of Environmental Service Contractor under any Environmental Service Workers Compensation statutes, disability benefit statutes or other employee benefit statutes. Environmental Service Contractor expressly waives any provision of any Environmental Service Workers Compensation statutes whereby Environmental Service Contractor could preclude its joinder as an additional defendant or avoid liability for damages, contribution or indemnity in any actions, at law or otherwise, where Environmental Service Contractor's employee or employees, their heirs, assigns or anyone else entitled to receive damages by reason of injury, illness or death brings an action against Owner's Indemnitees.
- (e) Environmental Service Contractor's indemnification and related obligations set forth in this Section 22 shall survive the expiration or termination of this Environmental Service Contract.
- (f) Subparagraphs (b), (d) and (e) of this Section 22 shall also apply to Environmental Service Contractor's agreements to indemnify, defend and hold harmless Owner's Indemnitees under Sections 11(b), 20(c) and 24(e) and (f).
- (g) IN NO EVENT SHALL EITHER PARTY THEIR EMPLOYEES, SUBCONTRACTORS OR SUPPLIERS BE LIABLE TO THE OTHER UNDER THIS ENVIRONMENTAL SERVICE CONTRACT FOR CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, REVENUES,

PRODUCTION OR BUSINESS, WHETHER BASED ON BREACH OF CONTRACT, NEGLIGENCE, BREACH OF WARRANTY OR OTHERWISE (COLLECTIVELY "CONSEQUENTIAL DAMAGES"); PROVIDED, HOWEVER, THAT FOR PURPOSES OF THE FOREGOING LIMITATION, CONSEQUENTIAL DAMAGES SHALL NOT INCLUDE ANY OBLIGATIONS TO DEFEND, INDEMNIFY OR HOLD HARMLESS OR OTHER LIABILITIES TO WHICH EITHER PARTY HAS EXPRESSLY AGREED UNDER THIS ENVIRONMENTAL SERVICE CONTRACT, WHETHER OR NOT THE UNDERLYING CAUSE FOR EITHER PARTY HAVING TO PERFORM ITS OBLIGATIONS TO DEFEND, INDEMNIFY OR HOLD HARMLESS OR BE LIABLE TO THE OTHER PARTY WOULD OTHERWISE UNDER LAW BE DEEMED TO BE CONSEQUENTIAL DAMAGES.

## SECTION 23. RISK OF LOSS; INSURANCE

- (a) Prior to the completion of the Environmental Service Work, all Environmental Service Work in Environmental Service Contractor's custody and possession shall remain at the risk of Environmental Service Contractor and Environmental Service Contractor shall be responsible for all loss and damage to the Environmental Service Work and shall repair, correct or otherwise cure, at its own option and expense, all such loss and damage to the extent caused by the fault or negligence of Environmental Service Contractor, unless caused by an Owner Indemnitee or Owner's other contractors or to the extent excused by another provision of this Environmental Service Contract. On completion of the Environmental Service Work, including the delivery of all goods, title and risk of loss or damage shall pass to Owner.
- (b) Environmental Service Contractor shall maintain and shall require each of its Subcontractors, if any, to maintain the following types of insurance coverages with not less than the limits of coverage specified in the Purchase Order or that Environmental Service Contractor maintains as part of its general program of business insurance, whichever are greater, and for the coverage periods as long as the Environmental Service Contractor Agreement is in effect:
  - (i) Commercial general liability insurance (including umbrella coverage), on a form at least as broad as Insurance Services Office ("ISO") commercial general liability "occurrence" form CG 00 01 0196 (available through a commercial insurance broker) or another "occurrence" form providing equivalent coverage and approved in writing by Owner; and such commercial general liability insurance and any necessary riders thereto shall provide at least the following coverages:
    - (1) contractual liability coverage;
    - (2) completed operations coverage;
    - (3) broad form property coverage for property in the care, custody, or control of the Environmental Service Contractor, except that Owner shall provide insurance to cover damage to or loss of Owner's property in due course of transit;
    - (4) coverage for liability arising out of professional services (unless contained in a separate professional liability policy), explosion, collapse, underground operations, or damage to utilities and loss of use resulting therefrom, and
    - (5) products liability.
  - (ii) Workers Compensation and occupational disease insurance securing compensation for the benefit of Environmental Service Contractor employees and the employees of each Subcontractor, if any, as required by Applicable Laws, including the laws of each State where the employment contracts of such employees were made. Such coverage need not be obtained if Environmental Service Contractor has an accepted program of self-insurance under Applicable Law or participates in an applicable monopolistic state

Environmental Service Workers Compensation fund. If applicable, Environmental Service Contractor shall also carry Longshore and Harborworkers and/or Jones Act coverages or similar coverage as may be required for any personnel Environmental Service Contractor employees working on, over, or around water;

- (iii) Employers liability insurance;
  - (iv) Motor vehicle liability insurance issued on a form at least as broad as ISO Business Auto Coverage Form CA 00 01 07 97 or other form providing equivalent coverage, covering all owned, hired, borrowed and non-owned vehicles (Symbol 1) brought onto the real property of any Owner Company; and
  - (v) When expressly specified in the Purchase Order, all risk builder's risk insurance (including flood and earthquake) covering full replacement value of all goods and services to be incorporated into the Environmental Service Work, including transit perils and testing coverage for at least ninety (90) days. Owner, Environmental Service Contractor and all Subcontractors shall be named insureds under the policy, which shall be primary to and noncontributory with any other insurance carried by Owner.
- (c) All required policies of insurance shall contain a waiver of subrogation in favor of Owner's Indemnitees, excluding professional liability policies. The required commercial general liability and motor vehicle liability insurance policies shall cover Owner as an additional insured with respect to Claims arising out of the Environmental Service Work of the named insured or on the real property of any Owner Company, and with respect to Claims by employees of Environmental Service Contractor or their personal representatives, heirs, and beneficiaries. Such coverage shall be primary to and noncontributory with any other insurance carried by Owner.
- (d) All deductibles on insurance required to be obtained under this Environmental Service Contract shall be borne by Environmental Service Contractor at its sole expense, without reimbursement by Owner, and shall be treated as "insurance" for the purpose of the waiver in Section 23(h) below;
- (e) All required policies of insurance shall be maintained in a form and with responsible insurance carriers reasonably satisfactory to Owner who are authorized to do business in the jurisdiction(s) in which the Environmental Service Work is performed, and who are rated by AM Best as A- or better with a size rating of VII or better. As part of the pre-qualification process, Environmental Service Contractor has provided or shall provide Owner with certificates of insurance evidencing all required coverages, listing the named insured and additional insureds, and confirming the required waiver of subrogation. The certificates shall state that the policies described therein will not be cancelled terminated, or materially amended, and renewals will not be refused or aggregate limits potentially exhausted until at least thirty (30) days after written notice has been given to Owner. All certificates of insurance shall be sent to the attention of Owner's Manager for Risk Management and Insurance, ArcelorMittal, 3210 Watling Street, Mail Code 8-216, East Chicago, IN 46312. Environmental Service Contractor shall deposit with Owner certificates of renewal at least (10) days prior to the expiration dates of any expiring policies. Each policy of insurance shall not contain any unusual exclusions for Environmental Service Work performed by Subcontractors and must incorporate any reasonable additional endorsements as Owner may reasonably request in the Purchase Order. If a Purchase Order requires additional policies not on the pre-qualification certificate, then Environmental Service Contractor shall endeavor to obtain such policy and provide a new certificate of insurance prior to starting the Environmental Service Work.
- (f) Environmental Service Contractor shall notify Owner and the applicable insurance carriers of any occurrence or event giving rise to a Claim as required under the terms of the policies.

- (g) Environmental Service Contractor waives all rights and claims against Owner's Indemnitees and its other contractors, for all damages, losses, fines, expenses, costs, and fees, but only to the extent of its actual recovery of any insurance proceeds therefor. Environmental Service Contractor shall require similar waivers in favor of Owner and Environmental Service Contractor from its Subcontractors.
- (h) Failure of the Environmental Service Contractor to provide such certificates evidencing the required insurance shall under no circumstances be deemed a waiver of this requirement. The obligation of Environmental Service Contractor to provide the required policies of insurance shall not limit in any way the liability or obligation assumed by Environmental Service Contractor under the Environmental Service Contract. Failure to maintain all required insurance coverage may result in the cancellation of this Environmental Service Contract and all other Environmental Service Contracts between the Owner Companies and Environmental Service Contractor.
- (i) Environmental Service Contractor shall cause each of its Subcontractors that enters onto any real property of any of the Owner Companies to obtain the required insurance reasonably consistent with those contained herein and to provide to Owner a certificate of insurance prior to the start of Environmental Service Work.
- (j) Environmental Service Contractor shall be responsible for providing all other insurance and employee benefits required of Environmental Service Contractor under Applicable Laws and shall require its Subcontractors to do the same.
- (k) Environmental Service Contractor's provision of required insurance shall not relieve or otherwise limit any of Environmental Service Contractor's other obligations or potential liabilities under this Environmental Service Contract.

#### **SECTION 24. PATENTS AND COPYRIGHTS**

- (a) Unless otherwise agreed in writing by Owner and Environmental Service Contractor, subject to Section 24(b) below, all documents and software that Owner furnishes to Environmental Service Contractor and all bargained-for documents, records, information, databases and software that Owner purchases from Environmental Service Contractor or that are created under this Environmental Service Contract at Owner's expense as part of the Environmental Service Work, whether in written or electronic or other fixed form (collectively, "Records"), are or when hereafter created shall become and shall remain the sole property of Owner; and Environmental Service Contractor shall treat all such Records as confidential and shall not duplicate, copy or transmit Records to third parties or otherwise use Records for any purpose except as required by Applicable Laws or as necessary for Environmental Service Contractor to perform its obligations under this Environmental Service Contract, but only expressly subject to Owner's rights. Owner shall own the copyrights applicable thereto; and Environmental Service Contractor shall assign any of the copyrights to Owner and cooperate reasonably in registering any of them at Owner's request. Owner's failure to take possession of any Records shall not be construed as a waiver of any of Owner's rights under this Section 24. Environmental Service Contractor shall have the right to retain a copy of all such materials for its business records.
- (b) Unless otherwise agreed in writing by Owner and Environmental Service Contractor, as between Owner and Environmental Service Contractor, Environmental Service Contractor shall retain ownership of all pre-existing intellectual property and know-how as well as documents and software that were or are owned by Environmental Service Contractor independently of this Environmental Service Contract ("Environmental Service Contractor's Documents") or were or are created under this Environmental Service Contract at Owner's expense as part of the

Environmental Service Work, but such creation was accomplished only by making insubstantial or incidental changes to Environmental Service Contractor's Documents for purposes of completing the performance of Environmental Service Contractor's other obligations under this Environmental Service Contract.

- (c) Notwithstanding anything in this Environmental Service Contract or otherwise to the contrary, Owner may use and make copies of any Environmental Service Contractor's Documents or changed Environmental Service Contractor's Documents delivered to it under this Environmental Service Contract as necessary or reasonably convenient for the purpose of operating, maintaining, repairing, servicing, rebuilding, or modifying any goods or facilities delivered to Owner under this Environmental Service Contract. Reuse of any such materials by Owner on any extension of this project or any other project without the written authorization of Environmental Service Contractor shall be at Owner's sole risk.
- (d) Environmental Service Contractor agrees to execute and abide by any confidentiality agreements, reasonable acceptable to Environmental Service Contractor, that may be required by Owner or Owner's suppliers in respect of confidential or proprietary materials or information made available to Environmental Service Contractor in connection with the Environmental Service Work.
- (e) Environmental Service Contractor agrees to indemnify, defend and save harmless Owner from and against any Claims arising from (i) the infringement or alleged infringement of any United States patent or copyright by the Environmental Service Work performed or by any goods or services represented as being unique to the Environmental Service Work furnished hereunder, or by the normally intended use or mode of operation of the Environmental Service Work, goods or services so furnished; (ii) any unfair competition or alleged unfair competition resulting from any similarity or alleged similarity of design or appearance of, or trademark on, any Environmental Service Work, goods or services furnished and represented as being unique hereunder; and (iii) the actual or alleged unauthorized use of any trade secrets, proprietary know-how or other proprietary rights incorporated into the Environmental Service Work by the Environmental Service Contractor without any direction from Owner Indemnitees. The foregoing hold harmless and indemnity shall not apply to claims or damages to the extent such claims or damages are based upon any express direction from Owner to Environmental Service Contractor to use the infringing design, method or practice.
- (f) Environmental Service Contractor shall, at the request of Owner, defend at Environmental Service Contractor's expense any suit brought to enforce any Claim under Section 24(e), it being understood that Owner will give Environmental Service Contractor written notice of the commencement of any such suit and provide such assistance to Environmental Service Contractor as reasonably required to defend same, provided that Owner's failure to give Environmental Service Contractor reasonable notice of a suit shall not limit Owner's rights to require Environmental Service Contractor to defend the suit except to the extent Environmental Service Contractor has been actually and materially prejudiced by Owner's failure. Owner may be separately represented at its own expense in any such suits, actions or legal proceedings by counsel of its own selection, and Environmental Service Contractor and its counsel shall cooperate with Owner's counsel so long as their means and methods are not contrary. Owner and Environmental Service Contractor shall coordinate their efforts in the defense of any such Claims, and neither Party shall seek to reach a settlement or accommodation that would cause admissions or cost to attach to the other party without the approval of such Party, which approval shall not be unreasonably withheld or delayed.



## **SECTION 25. ASSIGNMENT**

This Environmental Service Contract shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors and assigns. Neither Party shall assign the Environmental Service Contract or any of its rights or obligations hereunder, including, without limitation, assigning or pledging any of the monies to be received hereunder, unless the assigning Party shall have procured the prior written consent of the other Party to such assignment or pledge. No assignment or subcontracting of any portion of the Environmental Service Work to be performed hereunder will relieve Environmental Service Contractor of its obligations under this Environmental Service Contract. Notwithstanding anything herein to the contrary, and without in any way limiting any other of Owner's rights, Owner shall have the right upon ninety (90) days written notice to Environmental Service Contractor to assign this Environmental Service Contract and Owner's rights or obligations under this Environmental Service Contract to (i) any person who acquires all or substantially all of Owner's assets to which this Environmental Service Contract pertains, and (ii) any of the Owner Companies; provided, however, upon such an assignment without Environmental Service Contractor's consent, Environmental Service Contractor may terminate this Environmental Service Contract without liability at any time within a thirty (30) day period after said assignment.

## **SECTION 26. TAXES**

Unless otherwise specified in the Purchase Order, Owner shall reimburse Environmental Service Contractor for all taxes, duties and levies such as sales, use, value added taxes, deemed profits taxes, and other similar taxes that are added to or deducted from the value of Environmental Service Work. For the purpose of this Section such taxes shall not include taxes imposed on Environmental Service Contractor net income, and employer or employee payroll taxes levied by any United States taxing authority, or the taxing authorities of the countries or any agency or subdivision thereof in which Environmental Service Contractor subsidiaries, affiliates, or divisions are permanently domiciled. It is agreed and understood that these net income, employer or employee payroll taxes are included in the unit prices or lump sum to be paid Environmental Service Contractor under the respective Purchase Order.

## **SECTION 27. CONFIDENTIALITY**

- (a) Environmental Service Contractor shall not make any public announcement, press release or advertisement in connection with this Environmental Service Contract or otherwise disclose any information obtained by or provided to Environmental Service Contractor in the performance of this Environmental Service Contract without the prior written approval of Owner.
- (b) Environmental Service Contractor shall not take any photographs, videotapes, motion picture or digital images or use any other visual recording devices on any real property of any of the Owner's Indemnitees without, and in each instance where granted, only to the extent of, the prior written permission of Owner, which may be withheld in Owner's sole discretion.
- (c) Environmental Service Contractor shall execute any additional confidentiality agreements regarding proprietary information or trade secrets in connection with this Environmental Service Contract as Owner may reasonably request.

## **SECTION 28. INDEPENDENT ENVIRONMENTAL SERVICE CONTRACTOR**

Environmental Service Contractor shall be and act at all times as an independent contractor hereunder, and neither Environmental Service Contractor nor any of its associates, employees, Subcontractors, Suppliers or agents shall be deemed to be partners, joint venturers, agents or employees of Owner for any purpose except as expressly granted in Section 30. Environmental Service Contractor shall be

responsible for all payroll taxes levied or in any way attributable to Environmental Service Contractor's employees, and nothing herein shall entitle Environmental Service Contractor or any of its employees, representatives or agents to any employee benefits of Owner. Neither Environmental Service Contractor nor any of its employees shall represent themselves to be an employee of Owner. Environmental Service Contractor shall have no authority and shall not represent that it has authority to execute documents on behalf of Owner or otherwise to assume or incur any obligation of any kind whatsoever in the name of Owner except as expressly granted in Section 30.

## **SECTION 29. NON-INTERFERENCE**

Environmental Service Contractor shall at all times perform the Environmental Service Work in a manner to avoid any interference with Owner's operations and to not cause any labor dispute, slowdown, strike or other disruption by Owner's employees or the employees of any of Owner's other environmental service contractors, subcontractors or suppliers.

## **SECTION 30. RESPONSIBILITY FOR OTHER PARTIES; WASTE DISPOSAL**

- (a) Environmental Service Contractor shall be responsible to Owner for Environmental Service Work and the services of Environmental Service Contractor's Subcontractors. Environmental Service Contractor shall not be responsible for the acts or omissions of other parties engaged by Owner nor for their construction means, methods, techniques, sequences, or procedures, or their health and safety precautions and programs.
- (b) All nonhazardous samples and by-products from sampling processes in connection with the Environmental Service Work shall be disposed of by Environmental Service Contractor in accordance with Applicable Laws. Any and all materials, including wastes, that cannot be introduced back into the environment under existing law without additional treatment, and all hazardous wastes, radioactive wastes, or hazardous substances/materials as defined under Applicable Laws ("Hazardous Substances") related to the Environmental Service Work, shall be packaged in accordance with the Applicable Law by Environmental Service Contractor and turned over to Owner for appropriate disposal, unless otherwise agreed to by Owner. Environmental Service Contractor shall not arrange or otherwise dispose of Hazardous Substances except as an agent of Owner. Environmental Service Contractor, at Owner's request, may assist Owner in identifying appropriate alternatives for off-site treatment, storage or disposal of the Hazardous Substances, but Environmental Service Contractor shall not make any independent determination relating to the selection of a treatment, storage, or disposal facility nor subcontract such activities through transporters or others. Owner shall sign all necessary manifests for the disposal of Hazardous Substances. If Owner requires: (1) Environmental Service Contractor agents or employees to sign such manifests; or (2) Environmental Service Contractor to hire, for Owner, the Hazardous Substances transportation, treatment, or disposal contractor, then for these two purposes, Environmental Service Contractor shall be considered to act as Owner's agent so that Environmental Service Contractor will not be considered to be a generator, transporter, or disposer of such substances or considered to be the arranger for disposal of Hazardous Substances, and Owner shall indemnify Environmental Service Contractor against any claim or loss resulting from any such signing that is properly made. Notwithstanding any provision contained herein to the contrary, in no event shall Environmental Service Contractor take title to such waste.
- (c) In situations where Environmental Service Contractor is hauling and/or disposing of waste materials generated at the Job Site, the following shall apply:

- (i) unless otherwise agreed, Owner shall be responsible for loading of waste materials into the vehicles. Risk of loss to the waste materials shall pass from Owner to Environmental Service Contractor once the vehicle is loaded.
- (ii) Environmental Service Contractor shall be responsible for providing all required manifests for proper transport of the waste material. Manifests will be signed by the appropriate Owner personnel. Transport vehicles must be appropriately permitted, licensed, and insured, including the following information:
  - (1) DOT/EPA Carrier Safety Rating;
  - (2) Certificates of Insurance;
  - (3) Spill Contingency plans;
  - (4) EPA Identification #; and
  - (5) State transporter permit number.
- (iii) In situations where Environmental Service Contractor is providing for disposal in the Environmental Service Contractor's landfill,
  - (1) the waste materials shall be treated and/or disposed of at said facility in the manner agreed to in the Purchase Order;
  - (2) the waste materials shall be treated and/or disposed in full compliance with all Applicable Laws; and
  - (3) said facility, at the time of treatment and/or disposal of the waste materials, shall have been issued all governmental permits, licenses, authorizations and approvals required for the treatment and/or disposal of the waste materials, and shall be subject to Owner's right to audit said disposal facility in a reasonable manner.

**EXHIBIT A**  
**Environmental Service Contracts**

**FINAL RELEASE AND WAIVER OF RIGHT TO LIEN [and State Specific Lien Waiver  
Requirements if applicable]**

For good and valuable consideration, the receipt of which is hereby acknowledged,  
\_\_\_\_\_(name of Subcontractor), located at  
\_\_\_\_\_(Subcontractor's address), hereby knowingly and intentionally  
releases and forever waives any right, entitlement or claim it may have against ArcelorMittal or its  
affiliates, any of their properties, any of their lenders or secured creditors, and any of their successors  
and assigns, to establish, file or assert any lien, including without limitation, mechanic's lien claims,  
and any other lien of any kind or nature whatsoever under applicable State law, any other statutory or  
common law, or any principle of equity, which Subcontractor may have or may hereafter acquire, by  
reason of having furnished, supplied, constructed or performed any Environmental Service Work,  
improvements, labor, equipment or materials as a Subcontractor, Supplier or materialman to  
\_\_\_\_\_(name of Environmental Service Contractor) at or in connection with any facility  
or property of ArcelorMittal or its affiliates.

[NAME OF SUBCONTRACTOR]

Authorized Signature: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

SUBSCRIBED AND SWORN TO BEFORE me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public  
My Commission Expires: