

GENERAL CONDITIONS FOR ENVIRONMENTAL SERVICES CONTRACTS

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1. REPRESENTATIONS:

A. Supplier understands that he must rely upon his own examination and investigation as to the scope and location of the Work to be performed and all local and general conditions which may affect performance of the Work.

B. Supplier represents and warrants that he understands the currently known hazards which are presented to persons, property and the environment in the handling of materials which exhibit hazardous properties.

C. Supplier represents and warrants that he has the capability of properly performing the Work.

D. Supplier represents and warrants that all containers supplied by Supplier shall be in conformance with all applicable United States Department of Transportation ("DOT") and United States Environmental Protection Agency ("EPA") regulations and all other applicable laws, rules, regulations and orders required for waste meeting the waste descriptions applicable to the waste intended to be placed within.

2. SUPPLY OF ITEMS: Supplier shall supply and pay for all labor, tools, implements, equipment, machinery, utilities, materials, necessary supervision and any other item or service needed for the Work except those items, if any, specified to be supplied by Owner.

3. PERFORMANCE OF WORK:

A. Supplier shall perform the Work in the best and most workmanlike manner, using qualified, efficient and careful workers, in strict conformity with generally accepted environmental industry practices and, where Work is being conducted on Owner's premises, in compliance with all health, safety, security, fire protection and first aid requirements set forth in Exhibits "S" and "S-I," "Supplier Health, Safety, Security, Fire Protection and First Aid Requirements," to this Contract.

B. Time is of the essence of this Contract. Supplier understands that damages to Owner may result from any delay in completion of the Work or portions thereof.

C. Supplier shall take all reasonable precautions to perform the Work so as to not interfere with Owner's operations or with the operations of other Suppliers working on Owner's premises.

4. SCOPE OF WORK: The "Scope of Work" set forth in this Contract contains a detailed description of the Work to be performed hereunder. It includes, where appropriate, a description of any waste to be disposed of as set forth on any necessary waste data, waste manifest or waste approval forms prepared by Owner. Supplier shall base his testing, evaluation and service procedures on said waste description.

5. PROJECT SCHEDULE: Unless otherwise specified by Owner, Supplier shall, within fourteen (14) days after Owner's notice to Supplier of the award of this Contract, submit for Owner's approval a proposed performance schedule which shall be a breakdown of, and shall concur with, the completion requirements of this Contract or, if no completion requirements are established, on a basis whereby the Work may be completed as soon as good practice and due diligence permit. Within seven (7) days after Supplier submits his proposed performance schedule, Owner and Supplier shall meet to review the schedule for compliance with the terms of this Contract. Supplier shall revise the schedule as Owner directs and shall resubmit the revised schedule incorporating every change which Owner directs, within two (2) days of the meeting, and Owner shall promptly issue written approval thereof. Owner's review or approval of the schedule shall in no way relieve Supplier from any of his obligations under this Contract.

6. SITE ACCESS: Owner shall provide Supplier, his subSuppliers and the employees, agents and representatives of any of them reasonable access to Owner's premises during normal working hours for purposes of performing the Work.
7. PERMITS, LICENSES AND FEES: Supplier shall obtain and pay for all permits, licenses and bonds and shall pay all fees and shall make all deposits which may be required by law or regulation to be obtained, paid for or made in connection with the prosecution of the Work, except for any such permits, licenses, bonds, fees and/or deposits which Owner may be required by law or regulation to obtain, pay for or make directly. The actual out-of-pocket cost of all such permits, licenses, bonds, fees and/or deposits obtained, paid for or made by Supplier will be in addition to the Contract price and will be paid by Owner to Supplier without markup upon submission of a proper invoice. Supplier shall give Owner immediate oral notice, followed within five (5) business days by written notice, of the modification of, revocation of, cancellation of, or decision not to renew, any permit or approval necessary for Supplier to perform the Work.
8. SUPPLIER-FURNISHED INSURANCE:
 - A. Supplier shall, at his expense, procure and maintain the following insurance:
 - (a) WORKERS' COMPENSATION INSURANCE in the amount required by all applicable laws, including, without limitation, the Longshore and Harbor Workers' Compensation Act and any other federal compensation act or maritime act, and EMPLOYER'S LIABILITY INSURANCE to a limit of not less than \$1,000,000. Supplier before commencing the Work shall be qualified under the workers' compensation laws of the state or states in which the Work or any portion of the Work is to be performed and shall at all times comply with the provisions of said laws. All subSuppliers of Supplier shall be required by Supplier to maintain the above described insurance coverage's and to comply with qualification requirements of all applicable workers' compensation laws; Supplier shall do so on behalf of his subSuppliers if his subSuppliers fail to maintain said insurance or to comply with said qualification requirements.
 - (b) COMPREHENSIVE GENERAL LIABILITY INSURANCE, including, without limitation, automobile liability covering Supplier and his employees for all of Supplier's operations hereunder, including, without limitation, the operations of all subSuppliers, the operation of vehicles and equipment by Supplier or any and all subSuppliers and liability assumed under the "Indemnity" provision of this Contract, with limits of not less than \$5,000,000 as a combined single limit for injury to, or death of, any person or persons and for property damage, including consequential loss, arising out of any single occurrence.
 - B. Prior to commencement of the Work, Supplier shall

provide Owner with certificates of insurance which demonstrate compliance with the terms of this Article 8. The Comprehensive General Liability Policy (a) shall name Kaiser Aluminum as additional insured, (b) shall provide that other insurance which Owner may have to insure loss shall be in excess of and not contribute to a loss to which the insurance provided herein by Supplier is applicable, and (c) shall provide that the insurer waives any right to subrogation which might arise by reason of any payment under the policies against Kaiser Aluminum its subsidiaries, its affiliated companies and the agents and employees of any of the foregoing.

C. Insurance deductibles, if any, shall not exceed \$10,000 per occurrence and shall be absorbed entirely by Supplier with no contribution by Owner. In the event of a reduction or exhaustion of any aggregate limit, Supplier shall secure additional insurance or shall have excess insurance available so as to comply at all times with the above requirements as to limits.

9. PRICE: In addition to the price to be paid Supplier for the Work to be performed hereunder, Owner shall reimburse Supplier for any taxes, tariffs, fees, surcharges or other charges imposed on Supplier by legislation and/or regulations enacted or promulgated after the date of this Contract and levied specifically upon the transportation, treatment, storage, incineration and/or disposal of any waste under this Contract within thirty (30) days after written notice of the same and upon submission of proper invoices by Supplier together with evidence that such charges have been levied against and paid by Supplier.
10. NON-CONFORMING WASTE: Waste shall be considered non-conforming if it fails to meet the waste description set forth in the Hazardous Waste Manifest covering such waste. If the waste is discovered to be non-conforming, Supplier may revoke his acceptance of the waste. The revocation of acceptance shall be effective immediately upon agreement by Owner of the existence of the non-conformance set forth in Supplier's written notice of the non-conformance. A revocation of acceptance by Supplier revests title, including risk of loss and all other incidents of ownership, in Owner. Owner shall notify Supplier within seven (7) days following receipt of Supplier's written notice as to an alternative lawful manner of disposition of the waste. If Owner fails to so direct Supplier, Supplier shall prepare for lawful transportation and return the waste to Owner. Owner shall pay Supplier his reasonable expenses and charges for handling, loading, preparing, transporting, storing and caring for non-conforming waste. Supplier shall be liable for all costs associated with non-conforming waste to the extent that non-conformance was caused, in whole or in part, by Supplier, his

subSuppliers or the employees, agents or representatives of any of them.

11. OWNERSHIP OF WASTE:

A. If Supplier transports or arranges for transportation of waste, and provided the waste meets the waste description applicable thereto, title to and risk of loss with respect to the waste shall pass from Owner to Supplier at such time as Supplier obtains possession of the waste.

B. Owner represents and warrants that:

(a) The waste delivered to Supplier will be in conformance with the waste description under "Scope of Work" set forth in this Contract.

(b) Owner holds clear title to all waste, ownership of which is to be transferred to Supplier, and is under no legal restraint or order which would prohibit transfer of possession of or title to such materials to Supplier or the servicing of such materials by Supplier.

(c) If regulations promulgated or revised under Section 3010 of the Resource Conservation and Recovery Act of 1978 (PL 94-580) identify the waste as "hazardous waste," either by characteristics or listing, Owner prior to tendering any waste to Supplier, has filed or will file with the appropriate governmental agency any and all notifications required by Section 3010 of the above Act.

12. RECORDS AND SAMPLE RETENTION:

A. Supplier shall keep a complete set of accounts and records on a cost accounting basis, in accordance with generally accepted accounting principles, showing all expenditures made under this Contract together with such other records as may be necessary to fully document and reflect the Work performed hereunder, including, when applicable, all testing, sampling and investigative services performed by Supplier. All such accounting records shall be subject to review by Owner upon request. All other such records shall become the property of Owner upon completion of the Work and shall be delivered to Owner at such location as Owner may request.

B. Supplier shall maintain all samples for thirty (30) calendar days from the date the analysis is performed, after which retention period, custody of such samples shall be transferred to Owner at such location as Owner may request.

13. CHANGES:

A. Owner shall have the right to make any changes in or deletions from or additions to the Work. Supplier shall not depart from the requirements of this Contract unless first directed in writing by Owner, and thereafter shall promptly comply with all such written directives of Owner.

B. Within five (5) days after receipt of such written notice, Supplier shall give Owner an estimate of the increase or decrease in the cost of the Work and time of performance resulting from such changes. The Contract price shall be increased or decreased, as the case may

be, on account of each authorized change, addition or deletion by an amount equal to the sum of (a) the lowest reasonable increase or decrease, if any, in the direct cost of performing the Work resulting from such change, addition or deletion and (b) the allowances provided for in this Contract, or if no allowances are stated in this Contract, a maximum of fifteen percent (15%) of the direct cost to cover overhead and profit as the combined allowance to Supplier and all subSuppliers for overhead and profit; provided that if the Contract price provides for unit prices, such unit prices shall be applicable in lieu of the amounts specified in clauses (a) and (b) of this sentence to the extent such change, addition or deletion involves Work covered by such unit prices. If any change or accumulation of changes is covered by unit prices or if unit prices are subsequently agreed upon and if quantities originally contemplated are so changed by such written Owner directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to Owner or to Supplier, the applicable unit prices shall be equitably adjusted. Under no circumstances, however, shall Supplier be entitled to any amount for indirect costs, damages or expenses of any nature regardless of the number, nature or timing of changes to the Work, including, without limitation, "impact" costs or labor inefficiency costs. The time for performance shall be increased or decreased, as the case may be, for each authorized change, addition or deletion by the lowest reasonable number of days by which the time required for Supplier's completion of each phase of the Work will be increased or decreased, if at all, as a result of such change, addition or deletion.

C. Owner may determine the amount of the increase or decrease in the Contract price and time for performance, if any, necessary to reasonably compensate Supplier for such change and shall issue an amendment to this Contract providing for such change in the Contract price and time for performance. Each such determination by Owner shall be final and binding upon Owner and Supplier, and this Contract shall be modified in accordance therewith, unless within thirty (30) days following Supplier's notice or receipt of such determination, Supplier protests such determination by written notice to Owner. Pending final resolution of any dispute arising under this Contract, unless Owner and Supplier otherwise agree in writing, Supplier shall proceed diligently with the performance of the Work and Owner shall continue to make payments subject to the terms of Article 16 "Payment."

14. DELAYS: If Supplier is delayed at any time in prosecuting the Work by (a) any act or neglect of Owner, (b) changes in the Work, (c) delays, which Supplier could not reasonably foresee or provide against, in the issuance of permits, certificates or

approvals from any governmental authority (collectively, clauses (a) through (c) of this sentence, the "Compensable Delays") or by (d) fire or unavoidable casualties, (e) unusually severe and abnormal climatic conditions or (f) any other cause which Supplier and his subSuppliers could not reasonably foresee or provide against (collectively, clauses (d) through (f) of this sentence, the "Excusable Delays"), then the Contract price and time for performance shall be adjusted as follows. In the event of Compensable Delays, Supplier shall be entitled to an equitable adjustment both in the Contract price and in the time for performance. In the event of Excusable Delays, Supplier shall be entitled only to an equitable adjustment in the time for performance. For Compensable Delays, Supplier's sole monetary compensation shall be for extended duration costs determined by (a) computing the actual excess field direct costs for the extended duration, plus (b) a reasonable amount for similar items as substantiated by any subSupplier, plus (c) escalation in labor and materials costs related to industry-wide increases in the costs of such items, plus (d) five percent (5%) of the sum of clauses (a) through (c) of this sentence for home office overhead. In determining the compensation due hereunder for Compensable Delays, no allowance shall be made for profit. If Supplier is delayed by lack of materials or equipment, Owner may supply such materials or equipment and the cost of such materials or equipment shall be deducted from the Contract price.

15. INSPECTION: During business hours, upon reasonable notice, and when accompanied by a representative of Supplier, Owner shall have the right to inspect and test, at its own expense, transportation vehicles or vessels, containers or facilities provided by Supplier and to inspect the handling, transportation and storage operations conducted by Supplier in the performance of this Contract.

16. PAYMENT:

A. Supplier shall receive the Contract price as full and complete payment for the Work hereunder. Subject to all other provisions of this Contract, the above compensation shall be paid as provided in this Article 16.

B. Within ten (10) days after the end of each month, Supplier shall submit a detailed estimate of the value of the Work done during such month.

C. Within thirty (30) days after submittal of the above estimate, Owner will pay to Supplier, in accordance with Owner's usual practice of vouchering accounts and upon submission of proper invoices by Supplier, the amount determined by Owner to be due Supplier for that month.

D. As a condition precedent to any payment under this Contract, Supplier may be required to execute a written general release and waiver of all claims against Owner, its subsidiaries, affiliated companies and the directors, officers, employees, agents, representatives and property of any of the foregoing arising under or in any

way connected with this Contract, and Owner may further require Supplier to furnish comparable written general releases and waivers of all claims by any and all subSuppliers, assignees, vendors or others furnishing labor, materials, services or equipment in connection with Supplier's performance of this Contract except, in each case, for disputed claims, made in good faith, and specifically reserved in any such release and waiver furnished by Supplier or any of his subSuppliers, assignees, vendors or such others.

E. Without limiting any other rights which Owner may have, whether pursuant to this Contract or otherwise, Owner may withhold all or any portion of any progress payment or final payment as and to the extent Owner, in good faith, determines such withholding to be necessary in order to protect it from loss because of (a) defects in workmanship or materials, (b) claims, levies, attachments, stop notices or court orders filed, or evidence indicating probable filing of such claims, levies, attachments, notices or orders, including claims covered by insurance until such claims are accepted by Supplier's insurance carrier, (c) claims, whether valid or not, that Supplier has failed to make payments promptly or properly to his subSuppliers, or for labor (including fringe benefits) or- for materials, equipment, transportation, shipping costs, services, taxes, fees or any other obligation arising out of the Work; (d) reasonable indication that the Work cannot be completed for the unpaid balance of the Contract price, (e) damage to Owner's property, any portion of the Work or to any work performed by Owner, another Supplier or subSupplier, (f) reasonable indication that the Work cannot be completed within the time for completion set forth in this Contract, (g) failure to furnish sufficient, properly skilled labor or to supply sufficient materials or otherwise to diligently prosecute the Work, (h) failure to deliver updated progress schedules if required under the provisions of this Contract as to content or time for submission, (i) failure to deliver, if required under the provisions of this Contract, insurance certificates, bonds, as-built information, written guarantees or warranties or to obtain permits or approvals required by any authority having jurisdiction over the Work, (j) failure to adhere to laws, ordinances, regulations or orders of any authority having jurisdiction over the Work or the project site, (k) failure to discharge or bond a mechanic's or materialman's lien or notice of lien or stop notice filed against any part of the Work or the project site in a manner satisfactory to Owner, or (l) any other failure to perform in accordance with the provisions of this Contract. If Owner exercises its right to withhold hereunder in good faith, Supplier shall not be entitled to any interest whatsoever on the money so withheld, regardless of the outcome of any subsequent

claim resolution. When the cause for any withholding hereunder has been remedied by Supplier to Owner's satisfaction, the amount withheld shall be released and paid.

F. Any overpayment by Owner to Supplier shall be deemed to be a mistake of fact and promptly repaid to Owner on demand.

17. LIENS: Supplier shall immediately discharge or obtain releases for stop notices, liens, attachments or levies which may be filed in connection with the Work or any work by Supplier under any other contract with Owner. Owner may withhold from any moneys due Supplier, in addition to amounts withheld under Article 16 "Payment," one hundred twenty-five percent (125%) of the aggregate amount of stop notices, liens, attachments or levies until the same are discharged, satisfied or released.

18. SUSPENSION OF WORK: Owner may, for its convenience, suspend the Work in whole or in part at any time by written notice to Supplier stating the nature, effective date and anticipated duration of such suspension; whereupon, Supplier shall suspend the Work to the extent specified and shall place no further orders or subcontracts relating thereto. During the period of any such suspension, Supplier shall protect and care for all Work, materials and equipment at the project site or at storage areas under his responsibility. Supplier shall give Owner copies of all outstanding orders and subcontracts for materials, equipment and services and shall take any action on such orders and subcontracts as Owner may direct. If the cost of the Work, including the cost of any additions to the Work made necessary by the suspension, is increased or decreased by such suspension, the Contract price shall be adjusted in accordance with the provisions of Article 13 "Changes" unless the suspension is necessitated, in whole or in part, by a failure of Supplier to comply with the requirements of this Contract.

19. TERMINATION FOR CONVENIENCE:

A. Owner may, for its convenience, terminate the Work in whole or in part at any time by written notice to Supplier stating the extent and effective date of such termination; whereupon Supplier shall (a) stop all work and place no further orders or subcontracts for materials, services, equipment or supplies, except as may be necessary to complete portions of the Work not terminated, (b) assign to Owner, in the manner and to the extent directed, all of the rights of Supplier under work orders, purchase orders and subcontracts relating to the terminated portion of the Work, (c) terminate work orders, purchase orders and subcontracts outstanding to the extent that they relate to the terminated portion of the Work and are not assigned to Owner, (d) take any necessary action to protect property in Supplier's possession in which Owner has or may acquire an interest, (e) complete performance of the unterminated

portion of the Work, and (t) take any other action toward termination of the Work which Owner may direct.

B. In the event of a termination of the Work or any portion thereof under this Article 19, Owner will pay to Supplier, subject to the limitations hereinafter set forth, the sum of (a) the costs incurred by Supplier in the performance of the terminated portion of the Work prior to termination, (b) an allowance for overhead, general and administrative expenses, including those of all subSuppliers, which shall in no event exceed fifteen percent (15%) of direct costs, and (c) an allowance for profit not to exceed ten percent (10%) of the foregoing in lieu of profit. Deductions will be made by Owner for amounts previously paid to Supplier and for any amounts which may be due Owner or which Owner may offset or withhold by the terms hereof. In any event, the total amount of all payments to Supplier shall not exceed the proportion of the total Contract price that the Work actually performed (including materials delivered to the project site or in transit to the project site) at the date of termination (less a reasonable allowance to cover the cost of correcting any defective Work) bears to the entire Work to be performed hereunder. Any payment to Supplier under this Article 19 shall be made in accordance with the provisions of Article 16 "Payment."

20. FAILURE BY SUPPLIER:

A. In the event (a) Supplier fails to diligently prosecute the Work (except in cases for which an extension of time is provided), (b) Supplier fails to make the progress set forth in this Contract, (c) Supplier fails to supply enough properly skilled workers or proper materials for the Work, (d) Supplier performs the Work in a manner which he knows or should have known to be defective, (e) Supplier disregards any laws, ordinances, regulations or orders of any authority having jurisdiction over the Work or the project site, (f) a mechanic's or materialman's lien or notice of lien is filed against any part of the Work or the project site and is not promptly bonded over in a manner satisfactory to Owner, (g) Supplier fails to pay any indebtedness when due, becomes insolvent, or in the event any voluntary or involuntary proceedings are instituted by or against Supplier in bankruptcy or insolvency, or in the event a receiver, trustee or assignee for the benefit of creditors of Supplier is appointed, or (h) Supplier fails to perform any of the conditions of or obligations assumed under this Contract, Owner shall have the right, if it so elects and without prejudice to any other rights it may have, to suspend payment in whole or in part under this Contract until the default has been remedied and/or to take the Work remaining to be completed wholly or partly out of the hands of Supplier or any other person in whose hands or possession the Work or any part of

it may be, in which event Owner may take over such of Supplier's and such other person's tools, equipment, materials and supplies as Owner deems necessary to complete such Work or may award such Work to another Supplier, all at Supplier's expense. In such event, Supplier, in the manner and to the extent directed by Owner, and only to that extent, shall assign to Owner all of the rights of Supplier under work orders, purchase orders and subcontracts relating to the Work.

B. In the event Owner exercises any of its rights under Paragraph A of this Article 20, Supplier shall not receive any further payment for the portion of the Work taken out of the hands of Supplier until the Work is completed. The actual expense of completion, including subcontracting costs and compensation for materials and equipment furnished by Owner and for its managerial and administrative expenses attributable thereto, shall be certified by Owner and shall be binding on the parties. If such expense shall be less than the unpaid balance of the Contract price to be paid Supplier for fully performing the Work, the difference shall be paid to Supplier in accordance with the provisions of Article 16 "Payment"; and the property of Supplier or such other person shall be released to Supplier or such other person, as the case may be, at the project site. If such expense exceeds the unpaid balance of such Contract price, Supplier shall promptly pay the difference to Owner on demand. Owner may retain possession of and/or place in storage Supplier's or such other person's equipment and property, at the sole risk and expense of Supplier or such other person, as the case may be, until such payment is made, and may, upon sixty (60) days' notice, sell the same at public or private sale and be a purchaser thereat and may execute any act or deed on behalf of and as agent of Supplier or such other person, as the case may be, to complete the sale and to transfer and perfect the title of any purchaser thereof.

C. In addition to the rights provided above, Owner shall have and may exercise or enforce any other rights or remedies provided by law or equity for any default or breach by Supplier; and Supplier shall be liable for and shall pay any losses or damages suffered by Owner arising out of any such breach or default by Supplier in the performance of this Contract.

21. CONFIDENTIAL INFORMATION:

A. All information, including plans, drawings, designs, calculations, specifications, reports, daily logs, data and other information disclosed to Supplier by or on behalf of Owner, or prepared by Supplier in connection with the Work, shall remain or become, as the case may be, the property of Owner. All such material shall be delivered to Owner by Supplier upon completion of the Work or upon request, whichever is sooner.

B. Supplier represents and warrants that, to the best of his knowledge and belief, no information or material he discloses to Owner in connection with the performance

of the Work involves any subject matter which is a trade secret of any third party and that Supplier is not aware of any adverse claim, interest or other fact or right, including patent infringement or misappropriation of trade secrets, which would in any way affect Supplier's ability to enter into or to perform this Contract or in any way impair the right of Owner to freely utilize any information or developments flowing therefrom.

C. Supplier shall not use the name of Owner in connection with any other project, proposed project, advertising brochure or other commercial use without the prior written consent of Owner.

D. In order to prevent the unauthorized disclosure and/or use of the information referred to in Paragraph A of this Article 21 (collectively, the "Confidential Information") which may cause damage to Owner and/or other parties to whom Owner owes a duty of confidentiality or who have an interest in the same, Supplier shall receive, keep and maintain the Confidential Information in strict confidence and shall not disclose or use the same except as expressly provided herein. Supplier may disclose the Confidential Information (a) to such of his own officers, directors, employees and agents as have a need (and only to the extent such persons have a need) to know such information in connection with the proper performance of the Work, (b) to such of his subSuppliers, vendors, suppliers and the officers, directors, employees and agents of any of them as have a need (and only to the extent such persons have a need) to know such information in connection with the proper performance of the Work, and (c) with the Owner's prior written consent, which Owner may withhold in its sole discretion (Supplier and all such persons to whom Supplier is so authorized to disclose the Confidential Information being, the "Authorized Recipients"). The Authorized Recipients may use the Confidential Information solely for the purpose of performing the Work or performing work under any other contract with Owner. In the event Supplier shall disclose any Confidential Information to any other Authorized Recipient, Supplier shall ensure that each such person is made aware of, and shall observe and comply with, the obligations of confidentiality, non-disclosure and use of the Confidential Information as provided herein. The foregoing obligations of confidentiality, non-disclosure and use shall not apply to any Confidential Information to the extent that the Authorized Recipient can prove that (a) such Confidential Information was lawfully in his possession prior to the effective date of this Contract and was not acquired directly or indirectly from Owner, or (b) such Confidential Information lawfully is or becomes public knowledge through no breach of this Contract or any other duty of confidentiality, non-disclosure or use

owed to Owner, including, without limitation, such duties as are intended to apply to Authorized Recipients hereunder, or (c) such Confidential Information is lawfully provided to such Authorized Recipient by any third party, unless the Confidential Information was obtained directly or indirectly from Owner, or the third party acquired the Confidential Information through a breach of any other duty of confidentiality, non-disclosure or use owed to Owner, including, without limitation, such duties as are intended to apply to Authorized Recipients hereunder.

E. If requested by Owner to do so, Supplier shall procure a written undertaking from each Authorized Recipient which shall acknowledge the terms of this Contract with respect to the treatment of Confidential Information and which shall evidence such Authorized Recipient's agreement to be bound by such terms. Such undertaking shall be in favor of Owner and Supplier and shall be in such form as Owner may prescribe.

22. CAMERAS, PHOTOGRAPHS AND OTHER MEDIA:

A. Supplier shall not bring any cameras onto the premises of Owner and shall not take, have taken or otherwise obtain photographs, films, videotapes or other media representations of any kind of Owner's premises, including, without limitation, photographs, films, videotapes or other media representations of the Work at various stages of progress or upon completion thereof, or photographs, films, videotapes or other media representations of any plans, drawings, specifications or other subject matter relating to the Work without the prior written consent of Owner. In the event that Owner does authorize Supplier to take, have taken, or otherwise obtain any such photographs, films, videotapes or other media representations, the receipt and use thereof will be subject to such terms and conditions as Owner deems appropriate at the time. The aforesaid restrictions concerning photographs, films, videotapes and other media representations shall also apply in the event any of the Work is to be performed off Owner's premises.

23. PATENTS, TRADE SECRETS, COPYRIGHTS AND TRADEMARKS:

A. Supplier shall indemnify, defend and hold Owner (including its successors in interest) harmless from and against any action against Owner based on a claim that the Work or any part thereof, including any process, system, method or arrangement used by Supplier, furnished by Supplier pursuant to this Contract, or the operation or use of the Work or any part thereof by Owner, constitutes infringement of any U.S. Patent, now or hereafter issued, or violates any other proprietary interest including, without limitation, copyrights, trademarks and trade secrets, if Supplier is notified promptly in writing and is given authority, information and assistance, at Supplier's expense, for the defense of the action.

B. In the event Owner is enjoined from the operation or

use of the Work or any part thereof in connection with any said action, Supplier shall, at his expense, take all reasonable steps to procure for Owner the right to operate or use the Work. If Supplier cannot so procure the right within a reasonable time, Supplier shall then promptly, at his expense, (a) modify the Work so as to avoid infringement or violation of any patent or other proprietary interest, (b) replace the Work with work which does not infringe or violate any patent or other proprietary interest, or (c) remove the Work, refund to Owner any Contract compensation theretofore paid to Supplier and pay to Owner any transportation costs and other expenses that may have been paid or incurred by Owner in connection with the Work so removed.

C. In the event any said action is based on infringement or violation of a proprietary interest (a) relating solely to specifications and drawings furnished by Owner, to a particular process or the product of a particular manufacturer specified by Owner or to Owner-furnished items, and (b) such specifications, drawings, processes or products are something other than that which has been offered or recommended by Supplier to Owner or to other parties, then the provisions of Paragraphs A and B of this Article 23 shall not be applicable.

24. LABOR AGREEMENTS AND COSTS:

A. Operations at a number of Owner's plants are governed by agreements with labor unions, and copies of such agreements will be made available at Supplier's request. Supplier agrees to take such action as may be necessary to avoid disrupting relations between Owner and its employees, if not inconsistent with applicable laws.

B. Unless expressly provided otherwise in this Contract, no adjustment in payment will be allowed Supplier for any increase in labor costs, including, without limitation, changes in working conditions, wages and fringe benefits.

25. INDEMNITY:

A. Supplier shall indemnify, save harmless and defend Owner, its subsidiaries, its affiliated companies and the directors, officers, employees, agents and representatives of any of the foregoing from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs and expenses of whatsoever kind or character, including, without limitation, attorneys' fees and expenses, arising out of or by reason of any liability or obligation in any manner caused or occasioned by or claimed to be caused or occasioned by, any act, omission, fault or negligence of Supplier or anyone acting on his behalf, including, without limitation, subSuppliers and vendors, their subSuppliers and subvendors and the directors, officers, employees, agents and representatives of any of the foregoing, in connection with or incident to this

Contract or the performance of the Work except where caused by the concurrent negligence of Owner, its directors, officers, employees, agents and representatives (other than Supplier or anyone acting on his behalf), in which event Supplier's liability for the payment of damages, costs and expenses hereunder shall be reduced in proportion to the negligence of Owner, its directors, officers, employees, agents and representatives (other than Supplier or anyone acting on his behalf) on the basis of comparative negligence or fault.

B. Without limiting the foregoing, Supplier shall indemnify, save harmless and defend Owner, its subsidiaries, its affiliated companies and the directors, officers, employees, agents and representatives of any of the foregoing from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs and expenses of whatsoever kind or character, including, without limitation, attorneys' fees and expenses, arising out of or by reason of any injuries (including death) or damage to any person or entity employed by or acting on Supplier's behalf in connection with this Contract, except where caused by the concurrent negligence of Owner, its directors, officers, employees, agents and representatives (other than Supplier or anyone acting on his behalf), in which event Supplier's liability for the payment of damages, costs and expenses hereunder shall be reduced in proportion to the negligence of Owner, its directors, officers, employees, agents and representatives (other than Supplier or anyone acting on his behalf) on the basis of comparative negligence or fault.

C. Supplier's obligations under this Article 25 and under Article 21 "Confidential Information" and Article 23 "Patents, Trade Secrets, Copyrights and Trademarks" shall continue without limitation as to time, notwithstanding the extinguishment of other rights and duties under this Contract by completion, Contract termination or any other manner.

26. TAXES:

A. Supplier shall be responsible for and shall pay all contributions, taxes and assessments which are measured by wages, salaries or other remuneration paid to persons employed by Supplier or his subSuppliers for the Work, or which arise by virtue of their employment, and which now or hereafter may be imposed by any governmental body. Such contributions, taxes and assessments shall include, without limitation, those for social security, disability, unemployment and other benefits, and for income withholding taxes. Supplier shall comply with all administrative regulations relating to such matters.

B. Except as otherwise provided in Article 9 "Price," Supplier shall be responsible for and shall pay all taxes, excises, assessments or other charges of any kind levied by any governmental body on or because of the

Work or on or because of the use of any equipment, supplies, material or labor in the performance of this Contract.

27. LAWS AND REGULATIONS: Throughout the performance of the Work, Supplier shall comply with all applicable federal, state and local laws, ordinances and regulations, whether existing or hereafter enacted, of all governing bodies having jurisdiction over the Work or any part thereof. In addition, Supplier shall comply with all rules and regulations which, from time to time, may be issued by Owner concerning security, health, welfare, conduct and other similar matters.
28. NOTICES: All notices under this Contract shall be in writing and may be served by either party on the other by hand, facsimile, telex, telegram, cablegram or regular mail addressed to the respective party at the address indicated in this Contract. The address of either party may be changed at any time by written notice of such change to the other party. Any such notice shall be effective upon delivery to the intended recipient or seven (7) days after being placed in the ordinary course of the mail, postage paid and properly addressed, whichever occurs first.
29. INDEPENDENT SUPPLIER: Supplier shall perform the Work solely as an independent Supplier and not as the agent or employee of Owner.
30. ASSIGNMENT AND SUBCONTRACTING: Neither this Contract nor any right, privilege or obligation hereunder shall be assigned or delegated by subcontract or otherwise in whole or in part by Supplier without the prior written consent of Owner. Any attempted assignment without such prior written consent shall be void.
31. WAIVER: No waiver of any provision of this Contract shall constitute a waiver of any other provision of this Contract or of the same or any other provision in any other instance. No waiver shall be effective except in writing signed by the authorized representatives of the parties hereto.
32. ENTIRE CONTRACT: This Contract contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all negotiations, proposals, agreements and understandings, whether written or oral, with respect thereto. No amendment, variance or change in the provisions of this Contract shall be effective except in writing signed by the authorized representatives of the parties hereto.
33. APPLICABLE LAW: This Contract shall be governed by and construed in accordance with the laws of the State of California without reference to principles regarding conflicts of laws.