

**ENGINEERING SERVICES MASTER AGREEMENT (AMNS-106)
AM/NS CALVERT LLC (October 2022)**

This **ENGINEERING SERVICES MASTER AGREEMENT** for engineering, design, architectural and related professional services ("Engineering Service Work") is made is made this _____, between _____, (Date)

AM/NS CALVERT LLC		
Full Legal Name of environmental contractor ("Engineering Services Contractor")	Full Legal Name ("Owner")	
State of Incorporation	DELAWARE	
State of Incorporation	State of Incorporation	
Address of Engineering Services Contractor	1 AM/NS WAY, CALVERT, AL 36513	
Address of Engineering Services Contractor	Address of Owner	
Engineering Services Contractor Signature	Owner Signature - Procurement	Owner 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 Engineering Services Contractor agree as follows:

1. a. "Owner's Site Rules" shall mean Owner's (i) "Contractor Safety & Health Field Manual;" (ii) "Occupational Health and Safety Requirements;" and (iii) "Site Environmental Requirements," which are incorporated herein by reference and accessible at <https://northamerica.arcelormittal.com/am-ns-calvert-supplier-portal>, and as amended from time to time.
- b. A "Purchase Order" under this Engineering Services Master Agreement shall mean a document identified as a "Purchase Order," "Order," or "Blanket Order," specifying (i) the nature and scope of engineering services for the Engineering Services Contractor to perform (the "Engineering Service Work" or "Work"), (ii) the price (or manner for calculating the price) to be paid to Engineering Services Contractor for performing the Engineering Service Work and payment terms therefor (the "Contract Price"), and (iii) the schedule or other statement of when the Engineering Services Contractor is to perform the Engineering Service Work (the "Contract Schedule").
- c. The "Other Contractual Documents", individually and collectively, shall mean other documents that the Owner may issue from time to time as contemplated under the documents listed in Subparagraphs a or b above.
2. From time to time, Owner may, but is not obligated to, issue one or more Purchase Orders to Engineering Services Contractor.
3. Engineering Services Contractor may, but is not obligated to, accept a Purchase Order either by express acceptance thereof or by beginning performance of the Engineering Service Work specified therein or by not rejecting the Purchase Order within five (5) business days of receipt. Each Engineering Services Contractor's acceptance of a Purchase Order shall create a separate binding and enforceable contract (an "Engineering Service Contract") with respect thereto, with each Engineering Service Contract consisting of the Owner's Site Rules, the AMNS-106 General Terms Engineering Service Contracts (set forth below), the Purchase Order (including without limitation the Engineering Service Work, Contract Price and Contract Schedule specified therein) and any Other Contractual Documents. Acceptance shall also be deemed to mean Engineering Services Contractor's acknowledgement that it has read, understands and accepts all terms, conditions and provisions in each of said documents.
4. For each Engineering Service Contract, Engineering Services Contractor shall (i) complete the Engineering Service Work, including without limitation performing of all work, providing of all goods and services, and furnishing 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 Engineering 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 Engineering Service Contract.
5. In the event any inconsistencies or discrepancies arise among any parts of the Engineering Service Contract and the precedence is not otherwise specified, then (i) Owner's Site Rules shall take precedence over the AMNS-106 General Terms Engineering Service Contracts, (ii) the AMNS-106 General Terms Engineering Service Contracts shall take precedence over the Purchase Order; and (iii) the Purchase Order shall take precedence over the Other Contractual Documents.
6. This Engineering Services Master Agreement shall not be binding unless fully executed by the parties (including dual signatures by Owner).

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

AMNS-106

GENERAL TERMS AND CONDITIONS
ENGINEERING SERVICE CONTRACTS
(October 2022)

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Note: "Engineering Services Contractor" may be referred to as "Contractor."

SECTION 1. DEFINITIONS

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

(i) The Owner's Site Rules, accessible at <https://northamerica.arcelormittal.com/am-ns-calvert-supplier-portal>, and as amended from time to time.

(ii) These AMNS-106 General Terms Engineering Service Contracts ("GTCs"); 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 Work, (2) the Contract Schedule, and (3) the Contract Price, and (B) any Other Contractual Documents.

(b) Unless otherwise defined elsewhere in a document taking precedence over these GTCs, capitalized terms shall have the following definitions throughout this Engineering Service Contract:

(i) "**Applicable Laws**" means all local, state and federal ordinances, codes, rules, regulations, specifications and laws, including without limitation Environmental Laws, Immigrations Laws, Safety Laws, regulations and standards, building codes, and emergency planning and community right-to-know laws that are (i) currently applicable to Engineering Services Contractor's performance of the Work and to all services to be provided to Owner under this Engineering Service Contract, (ii) the Project and Owner's Site, or (iii) enacted as of the date of creation of an Engineering Service Contract and scheduled to become applicable with the passage of time.

(ii) "**Change Order(s)**" shall have the meaning set forth in Section 6 of these GTCs.

(iii) "**Claims**" means 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 a result of any actual or alleged loss of, damage to or defect in property or any actual or alleged, disease, illness or injury, including death, of one or more persons.

(iv) "**Completion Date**" has the meaning specified in the Purchase Order applicable to this Engineering Service Contract.

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

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

(vii) "**Engineering Services Contractor**" shall mean the party or parties identified as Engineering Services Contractor on the Execution Sheet, and, solely for purposes of specifying the Engineering Services Contractor's obligations under this Engineering Service Contract, shall include the Engineering Services Contractor's employees, agents, Subcontractors (as hereinafter defined) and Suppliers (as hereinafter defined) at any tier.

- (viii) "**Engineering Services Master Agreement**" shall mean the "master-type" agreement executed by Engineering Services Contractor and Owner on the Execution Sheet in order to establish the terms, conditions and provisions for entering into one or more Engineering Service Contracts.
- (ix) "**Environmental Laws**" means all laws, including Applicable Laws, relating to the environment, environmental conditions, industrial hygiene, animal or plant life, health or safety, employee safety, or the use, storage, treatment, generation, transportation, processing, handling, production, disposal, emission, discharge, release or threatened release of Hazardous Materials or hazardous substances, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act of 1976, the Hazardous Materials Transportation Act, the Federal Water Pollution Control Act, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Safe Drinking Water Act, the Federal Emergency Planning and Community Right-to-Know Act of 1986, the Resource Conservation and Recovery Act, and the Federal Insecticide, Fungicide, and Rodenticide Act.
- (x) "**Hazardous Material**" shall mean petroleum or petroleum products, radioactive materials, and any hazardous substance, material, or waste which is defined or listed or regulated by any local, state, or federal governmental authority including, without limitation, (i) any material or substance which is (A) designated as a "hazardous substance" under the Federal Water Pollution Control Act, 33 U.S.C. §1251 et. seq., (B) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et. seq., (C) identified as "hazardous constituents" in 40 CFR, Part 261, Appendix VIII, or (D) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et. seq., and (ii) polychlorinated biphenyls, asbestos, or any other substance subject to the National Emissions Standard for Hazardous Air Pollutants as found in 40 CFR 61.
- (xi) "**Immigration Laws**" means all laws, including Applicable Laws, relating to immigration or the employment of aliens or non-citizens (including those that make it unlawful for an employer to employ or continue to employ an alien or non-citizen knowing that the alien or non-citizen is or has become unauthorized with respect to such employment) including, without limitation, the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, all I-9 or E-Verify requirements, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act (as amended).
- (xii) "**Job Site**" shall mean the location at Owner's facility where the Project that is the subject of the Engineering Services Contractor's Work is to be performed, installed or erected.
- (xiii) "**Owner**" means AM/NS Calvert LLC.
- (xiv) "**Owner Companies**" means Owner, the members of Owner and any person or entity directly or indirectly controlling, controlled by, or under common control of Owner or the members of Owner.
- (xv) "**Owner's Authorized Representative**" means any person whom Owner designates to Engineering Services Contractor in writing as the Owner's authorized representative.
- (xvi) "**Owner's Engineer**" means any person whom Owner designates to Engineering Services Contractor in writing as the Owner's Engineer.
- (xvii) "**Owner's Indemnitees**" means Owner, all Owner Companies and each of their respective directors, officers, employees, insurers and agents.

- (xviii) **"Owner's Site"** shall mean Owner's carbon steel processing mill located in Calvert, Alabama.
- (xix) **"Owner's Site Rules"** shall mean Owner's (i) "Contractor Safety & Health Field Manual," (ii) "Occupational Health and Safety Requirements," and (iii) "Site Environmental Requirements," which are incorporated herein by reference and accessible at <https://northamerica.arcelormittal.com/am-ns-calvert-supplier-portal>, and as amended from time to time by Owner. Owner's Site Rules shall be applicable to all Engineering Services Work performed on Owner's Site.
- (xx) **"Parties"** shall mean Owner and Engineering Services Contractor.
- (xxi) **"Plans and Specifications"** shall mean plans and/or specifications that depict and/or specify in the normal and customary usage of the trade a facility, building, item of equipment or machinery, system or the like and the operational requirements and quality standards for construction, fabrication, erection, installation, operation and maintenance thereof and all components thereof, including without limitation all technical or engineering requirements relating thereto.
- (xxii) **"Project"** shall mean an existing or proposed facility, building, item of equipment or machinery, system or the like that is the subject of the Engineering Services Contractor's Work contemplated in connection with this Engineering Service Contract.
- (xxiii) **"Purchase Order"** shall mean the purchase order issued by Owner to Engineering Services Contractor, as set forth in the Engineering Services Master Agreement, as a condition to and a necessary element of the creation of this Engineering Service Contract.
- (xxiv) **"Safety Laws"** means all laws, including Applicable Laws, pertaining to the safety of workplaces generally including, without limitation, the Occupational Safety and Health Act of 1970.
- (xxv) **"Subcontractor"** shall mean any person or company contracting directly with or indirectly through Engineering Services Contractor at any tier to furnish Engineering Services Contractor with any services under this Engineering Service Contract.
- (xxvi) **"Supplier"** shall mean any person or company contracting directly with or indirectly through Engineering Services Contractor to supply goods under this Engineering Service Contract.
- (xxvii) **"Statement of Work"** or **"Work"** shall have the meaning specified in the Purchase Order applicable to this Engineering Service Contract.

SECTION 2. GENERAL PROVISIONS

- (a) This Engineering 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 Engineering Service Contract (including change orders) shall be binding upon Owner or Engineering Services Contractor unless made in a writing that both (i) states that it amends this Engineering Service Contract, and (ii) is signed by an authorized representative of Owner and Engineering Services Contractor. All other agreements or alleged agreements and any proposals made prior to this Engineering Service Contract are hereby superseded. Except as expressly set forth in a Purchase Order, any reference whatsoever to, or any incorporation in any way whatsoever of, any bid, proposal, offer or quote of Engineering Services Contractor in any part of this Engineering Service Contract shall mean and include no more than the price, schedule, quantity and/or quality terms of Engineering Services Contractor's bid, proposal, offer or quote, as applicable, and shall expressly exclude any of Engineering Services Contractor's general terms and conditions of sale. Any reference to Engineering Services Contractor's general terms and conditions of purchase, sale or performance in any

communication or document issued or delivered by Engineering Services Contractor (including, but not limited to acknowledgement or invoices) shall not be operative, binding or effective.

- (b) Any captions used in this Engineering 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 Engineering Service Contract.
- (c) It is the intent of the Parties that whenever possible, each term, condition and provision of this Engineering Service Contract shall be interpreted in such manner as to be effective and valid under Applicable Laws, and that if any term, condition or provision of this Engineering Service Contract shall be rendered ineffective by or found to be invalid by a court of competent jurisdiction, 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 Engineering Service Contract.
- (d) All documentary parts of this Engineering Service Contract are complementary; what is called for by one part is as binding as if called for by all. If Engineering Services Contractor finds a conflict, error or discrepancy in any parts of this Engineering Service Contract, Engineering Services Contractor shall notify Owner before proceeding with the Work affected thereby.
- (e) Except as otherwise expressly specified in this Engineering Service Contract, Engineering Services Contractor shall provide and pay for all goods, services, utilities and facilities necessary for the execution and timely completion of the Work.
- (f) The failure of either Party to enforce, at any time, any of the terms, conditions and provisions of this Engineering 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 Engineering 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 Engineering Services Contractor of any term, condition or provision of this Engineering Service Contract shall not constitute a waiver of any future obligation to comply with such term, condition or provision.
- (g) Nothing herein requires Owner to order any services from Engineering Services Contractor or confers upon Engineering Services Contractor any exclusive right to provide any services to Owner.
- (h) Any moneys due for services furnished hereunder may at Owner's option be applied by Owner to the payment of any sums owed by Engineering Services Contractor to any Owner Companies.
- (i) This Engineering Service Contract was arrived at through good faith, arms-length negotiations, and any ambiguity shall not be construed against either Party.
- (j) Unless expressly provided otherwise herein, nothing in this Engineering Service Contract is intended to confer any rights or remedies upon any persons other than Owner and Engineering Services Contractor and their respective successors and permitted assigns or to relieve or discharge the obligation or liability of any persons other than Owner and Engineering Services Contractor or to give any third person any right of subrogation, claim or cause of action against Owner or Engineering Services Contractor.
- (k) **Applications for Payment and Supporting Documentation.** Contractor shall prepare all applications for payment in a form satisfactory to and approved by Owner. In the event an application for payment is submitted in accordance with this Engineering Services Contract terms for Work accomplished on a reimbursable or unit price/unit rate basis, it shall be

accompanied by documentation supporting each element of measurement and/or cost. Any application for payment submitted which fails to comply with the terms of this Engineering Services Contract, including the requirements of form and documentation may be returned to Engineering Services Contractor. Any costs associated with resubmission of a proper invoice shall be on Engineering Services Contractor's account.

- (l) This Engineering Service Contract is a contract to provide only engineering services and only for one or more Projects as specified in one or more Purchase Orders. This Engineering Service Contract shall not be used to provide or otherwise applicable to the provision of engineering services by so-called "loaned employees" or the like, i.e., employees of Engineering Services Contractor who are assigned on a full-time or substantially full-time basis for work under the direction and supervision of Owner; and any such provision of engineering services shall only be accomplished pursuant to a separate contract or purchase order. Also, unless otherwise provided in the Purchase Order, in instances where, in addition to engineering services, Engineering Services Contractor is to provide goods to Owner, Engineering Services Contractor and Owner shall enter into a separate contract or purchase order in connection with such provision of goods.
- (m) **Evidence of Labor, Materials, and Equipment Used.** If required by Owner, with each application for payment submitted, Contractor shall furnish evidence satisfactory to Owner that the Work is not subject to liens or claims, as set forth in the lien waiver forms contained in Exhibit A. Owner may withhold payment of any application for payment until Contractor furnishes such evidence.
- (n) **Liquidated Damages.** If liquidated damages are mutually agreed to by the Parties for a specific Project, the liquidated damages shall be set forth in the applicable Purchase Order. If liquidated damages are included in the Purchase Order, Contractor and Owner recognize that time is of the essence of this Environmental Services Contract and Owner will suffer financial loss if the Work and/or part thereof is not completed by the Contract Schedule. The parties recognize the delays, expenses and difficulties involved in proving the actual loss suffered by Owner if the Work and/or part thereof is not completed pursuant to the Contract Schedule. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner the agreed daily liquidated damages amount set forth in the applicable Purchase Order. Contractor's obligation to pay liquidated damages shall be in addition to Contractor's obligation under 10(b) to indemnify and save harmless Owner against any damages or costs arising from claims of other contractors.
- (o) **Protection of Work and Property.** Contractor shall at all times in accordance with best practices and at no additional cost to Owner, preserve and protect materials and equipment used in the execution of the Work from damage or loss due to weather, fire, theft, unexplained disappearance or other similar casualty. Owner shall not be responsible for any loss suffered by Contractor, or damage to the Work or to materials, tools and equipment of Contractor or any Subcontractor, and Contractor assumes responsibility for any such loss or damage and for any cost of repairing, making good, or replacing any such loss or damage as may be directed by Owner.
- (p) **Right to Offset.** Owner, without waiver or limitation of any rights or remedies of Owner, shall be entitled from time to time to deduct from any amounts due Contractor by Owner in connection with this Environmental Services Contract (or any other contract with Owner or any Owner Companies) any and all amounts owed by Contractor to Owner in connection with this Environmental Services Contract and any other contract between Owner and Contractor.

SECTION 3. SUSTAINABLE DEVELOPMENT; SAFETY

- (a) Within the framework of sustainable development, Owner is strongly committed in terms of safety, health, sustainability and the environment. During the performance of this Engineering Services Contract, Engineering Services Contractor shall comply, and cause its Subcontractors to comply, with safety, health and environmental rules specified by Applicable Law, Owner's Site Rules and any other rules of Owner. Moreover the principles stated in the United Nations Global Compact Treaty being of paramount importance for Owner, Engineering Services 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 Engineering Service Contract, Engineering Services Contractor shall comply and have its Subcontractors fully comply with all such rules and particularly with those required by Applicable Laws or Owner's Site Rules or other rules applicable at the Job Site. Disregard for, or multiple or continued violations of, Applicable Laws, Owner's Site Rules or any other applicable safety rules shall be deemed to be a material breach of this Engineering 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 safety rules. Engineering Services Contractor fully endorses these policies and adopts them as its own, insofar as they relate to the performance of its obligations under this Engineering Service Contract. Engineering Service Contractor's signature on the Execution Sheet and the acceptance of any Purchase Order shall constitute a representation and warranty by the Engineering Service Contractor that it has (i) accessed, printed, read, distributed as necessary, and understood Owner's Site Rules, (ii) investigated the scope and nature of the Work specified in the Purchase Order and the location which is the subject of the Work, and (iii) concluded that it can perform the Work in accordance with Owner's Site Rules and Applicable Laws and that Engineering Services Contractor can deliver a work product that is consistent with and can be implemented in accordance with Owner's Site Rules and Applicable Laws..
- (c) Unless otherwise specified in the Statement of Work or directed by Owner, Engineering Services Contractor shall control access of all of its and its Subcontractors employees, agents and invitees to the Job Site and be responsible for all such persons and the Work at the Job Site. In connection with its performance of the Work, Engineering Services Contractor shall continuously protect all such persons and their property from injuries, damage or loss. Having fully investigated the Job Site, the character of the Work and the conditions under which the Work must be performed, Engineering Services Contractor represents that it will be able to meet all safety requirements of this Engineering Service Contract in the performance of the Work.
- (d) If applicable, Engineering Services Contractor shall use only duly inspected and certificated equipment and duly licensed operators where required.
- (e) Engineering Services 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, of any person who does use required protective equipment or otherwise comply in all respects with Owner's Site Rules or other applicable safety rules. When applicable to the Work, Engineering Services Contractor shall provide and maintain guard fences, lights and other protective facilities as required by Owner's Site Rules or any public authorities or as reasonably directed by Owner's safety personnel.
- (f) Engineering Services Contractor shall (i) duly and immediately inform Owner of any accident, personal injury, accidental contamination, hazardous product and/or pollution occurring on or

nearby the Job Site noted or discovered by the Engineering Services Contractor during performance of the Work, and (ii) take all appropriate measures and actions to mitigate the consequences which arise or which may arise therefrom and for which Engineering Services Contractor is or may otherwise be liable under this Engineering Service Contract.

- (g) The Work shall only begin after the preparation of a prevention and safety plan by Engineering Services Contractor, and any Subcontractor involved in accordance with Applicable Laws and Owner's Site Rules. Engineering Services Contractor's access to the Job Site shall be subject to (i) Engineering Services Contractor having previously obtained from Owner all required authorizations of the Work (in particular in relation to safety matters) according to Owner's Site Rules and any other rules applicable to the Job Site, and (ii) all Engineering Services Contractor's staff (including its Subcontractors' staff) with access to the Job Site having previously and successfully attended a safety orientation for Owner's Site.
- (h) Except as expressly agreed in this Engineering Service Contract, Engineering Services Contractor shall provide a monthly report to Owner stating accident rates and gravity and frequency indicators or any other safety indicators required by Owner. Engineering Services Contractor's rates and indicators shall fully comply with the ones agreed between the Parties throughout the duration of the Engineering Service Contract. If not, then, within a two (2) weeks' time period starting from the date of non-compliance as stated in the monthly report, Engineering Services 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, the Parties shall meet before the end of the two-week time period, and Engineering Services Contractor shall take all necessary actions to remedy the non-compliance. Engineering Services Contractor shall be responsible for the success, consequences and all costs of deploying and implementing the action plan. If despite a reasonable time period, after the deployment of the action plan, the safety rates remain under the expected levels, Owner may in its sole discretion either or both (i) assess liquidated damages for Engineering Services Contractor's non-compliance to the extent specified in a Purchase Order, and/or (ii) consider, as set forth in Section 18(b) hereof, Engineering Services Contractor's non-compliance to be a material breach and cause for termination of this Engineering Service Contract for Engineering Services Contractor's breach.
- (i) **Site Access.** Engineering Services Contractor shall access Owner's Site only as Owner shall specify. Except for Engineering Services Contractor's personnel engaged in the performance of the Work, Engineering Services Contractor shall not allow any other person to access Owner's Site without Owner's prior written consent.

SECTION 4. COMPLIANCE WITH LAWS, CODES AND POLICIES

- (a) Engineering Services Contractor shall review and familiarize itself with and comply with all Applicable Laws and Owner's Site Rules. The Engineering Services Contractor shall strictly comply with all Applicable Laws and Owner's Site Rules in performing the Work; and all services supplied by the Engineering Services Contractor shall in all respects conform to the requirements of all Applicable Laws and Owner's Site Rules, including but not limited to the Americans with Disabilities Act. Unless otherwise expressly provided elsewhere in this Engineering Service Contract, Engineering Services Contractor shall secure and maintain all applicable permits and certifications; and Engineering Services Contractor shall comply with all reporting requirements required by any Applicable Laws. Engineering Services Contractor shall provide Owner with copies of all documents submitted to any governmental entity in connection with the 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 Engineering Service Contract (a "Change in Law") (other than a change scheduled on or before

the effective date of this Engineering Service Contract to become applicable with the passage of time) and such Change in Law directly and materially adversely affects Engineering Services Contractor's performance of its obligations under this Engineering Service Contract, Engineering Services 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 Engineering Services 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 Engineering 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 Engineering Services Contractor's overhead expenses.

- (c) Engineering Services Contractor shall take all necessary steps, in accordance with good industry practice, to prevent any fraudulent activity by Engineering Services Contractor (including its shareholders, members, directors and employees) and/or by any of Engineering Services Contractor's Suppliers, agents, Subcontractors and/or their employees in connection with the receipt of monies from Owner. Engineering Services Contractor shall notify Owner immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- (d) Engineering Services 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 Engineering Service Contract or any other agreement(s) with Owner, or for showing or refraining from showing favour or disfavour to any person in relation to this Engineering Service Contract or any other agreement(s) with Owner.
- (e) Engineering Services Contractor warrants 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 Engineering Service Contract or any other agreement(s) with Owner.
- (f) Contractor represents that it has read and understands Owner's (i) Code of Business Conduct, (ii) Anti-Corruption Procedure; (iii) Human Rights Policy; and (iv) Code for Responsible Sourcing (collectively, the "Owner's Policies"), as set out on ArcelorMittal's website: <https://corporate.arcelormittal.com/investors/corporate-governance/compliance-and-policies> and that it has not taken any action and will not take any action, inconsistent with or contrary to Owner's Policies in obtaining or performing this Environmental Services Contract. Contractor may be in material breach of this Environmental Services Contract for any violation of the foregoing representations or covenants. In the event that Contractor learns of any violation or alleged violation of Owner's Policies, Contractor shall report the violation or alleged violation by calling the Compliance Hotline Number, which is 1-888-242-7305 or online at <https://arcelormittal.ethicspoint.com>.
- (g) Where Engineering Services Contractor or Engineering Services Contractor's employees, servants, Subcontractors, Suppliers or agents or anyone acting on Engineering Services Contractor's behalf, engages in conduct prohibited by the provisions above in relation to any Engineering Service Contract or any other agreement(s) with Owner, Owner shall be entitled to:

- (i) terminate this Engineering Service Contract and/or said other agreement(s) and recover from Engineering Services Contractor the amount of any loss suffered by Owner resulting from such termination; or
 - (ii) recover in full from Engineering Services Contractor any other loss sustained by Owner in consequence of any breach of these Sections 4(c), (d), (e), and (f) whether or not this Engineering Service Contract and/or said other agreement(s) have been terminated.
- (h) Any clause required under any Applicable Laws to be included in this Engineering Service Contract shall be deemed to be incorporated by reference into this Engineering Service Contract.
- (i) Without in any way limiting the requirements of this Section 4, the following shall apply to this Engineering Service Contract:
 - (A) Unless Engineering Services Contractor is exempt, Contractor must comply with the Equal Opportunity Clauses set forth in 41 CFR §60-1.4(a), 41 CFR §60-250.5(a), 41 CFR §60-300.5(a), and 41 CFR §60-741.5(a); the provisions of 41 CFR §61-250.10 and 41 CFR §61-300.10 (both of which relate to veterans' employment reports); and the provisions of 29 CFR Part 471, Appendix A to Subpart A (posting of employee notice). Contractor may be required by applicable law to develop affirmative action programs and comply with other provisions of the regulations at 41 CFR Part 60 as well.
 - (B) Unless Engineering Services Contractor is exempt or unless the Fair Labor Standards Act ("FLSA") does not apply, Engineering Services Contractor's invoices shall state thereon, "We hereby certify that these services were provided in compliance with all applicable requirements of Section 5, 7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof."
 - (C) The OSHA Hazard Communication Standard (29 CFR Section 1910.1200) requires that each hazardous chemical in the workplace be properly labeled and accompanied by an appropriate Safety Data Sheet ("SDS"). In accordance with the law, Engineering Service Contractor shall not bring any hazardous chemical on Owner's Site unless it is properly labeled upon receipt and Engineering Service Contractor has provided an appropriate SDS to Owner and Engineering Services Contractor maintains a copy of the SDS at the Job Site as required by Applicable Laws.
 - (D) As applicable, all nonexempt Engineering Services Contractors and vendors will comply with the provisions of 29 CFR Part 470 (Obligations of Federal Engineering Services Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees).

SECTION 5. SCOPE OF ENGINEERING SERVICES

- (a) The scope of the Work shall be set forth in the Purchase Order.
- (b) In the event of any disagreement between Engineering Services Contractor and Owner concerning the Work to be performed, Engineering Services Contractor shall nevertheless perform in accordance with the instructions of Owner's Authorized Representative, and the disagreement shall be resolved in accordance with the dispute resolution procedures set forth in Section 9 below. Engineering Services Contractor shall not make any claim for any adjustments on account of a disagreement concerning the Work to be performed unless prior to the commencement of the Work giving rise to such claim Engineering Services Contractor had given Owner written notice of Engineering Services 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 WORK; CHANGE ORDERS

- (a) "Changed Work" shall mean the provision of services in addition to, less than and/or different from the services included within the scope of Work. At any time prior to the completion of the Work, and within a reasonable time thereafter, Owner may require Engineering Services Contractor to perform Changed Work.
- (b) Prior to Engineering Services Contractor's commencement of any Changed Work, Owner and Engineering Services Contractor shall reach an 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 Work. Upon such agreement, Owner shall issue necessary and customary documentation (a "Change Order") describing the Changed Work and any such adjustments, the payment for which shall be separately invoiced by Engineering Services Contractor. In the event Owner and Engineering Services Contractor do not reach such agreement, Engineering Services Contractor shall nevertheless perform the Changed Work in accordance with a Change Order issued by Owner indicating a disagreement on adjustments, and the disagreement shall be resolved in accordance with any dispute resolution procedure set forth in Section 9 below. Upon Owner's issuance of a Change Order, Work for all purposes under this Engineering Service Contract shall thereafter mean the Work as modified by the Change Order.
- (c) Engineering Services Contractor shall not make any claim for any adjustments on account of Changed Work unless prior to the commencement of the Changed Work giving rise to such claim Engineering Services Contractor had given Owner written notice of Engineering Services 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 Engineering Services Contractor agree that it is necessary to perform any Changed Work on a time and material basis, Engineering Services 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 work, which rate schedule shall be subject to approval by the Owner prior to commencement of the Changed Work.

SECTION 7. TIME OF PERFORMANCE

- (a) Unless otherwise specified in the Contract Schedule, TIME IS OF THE ESSENCE of this Engineering Service Contract, and Engineering Services Contractor shall complete the Work on or before the Completion Date and shall meet any intermediate completion dates specified in this Engineering Service Contract.
- (b) Engineering Services Contractor shall bear the cost of any premium time necessary in order to perform the Work within the time for performance set forth by the Engineering Service Contract, unless Engineering Services Contractor can demonstrate that a delay requiring premium time was caused by Owner. In the event Owner directs Engineering Services Contractor in writing to work at a faster rate so as to complete the Work prior to the Completion Date, Owner shall issue a Change Order reimbursing Engineering Services Contractor for actual premium time, at the rates applicable thereto, on a direct out-of-pocket basis, without further mark-up or at a mutually agreed upon lump sum. Engineering Services

Contractor shall invoice separately for any such reimbursable premium time or lump sum, as applicable.

SECTION 8. FORCE MAJEURE

- (a) Neither party shall be liable for delays in the performance of its obligations caused by any of the following conditions (a “Force Majeure Event”): acts of God or the public enemy, including an embargo, war, fire, flood, earthquake, terrorist attack, epidemic, pandemic or other calamity, or other cause beyond the reasonable control of the affected party; provided, however, that it is understood between the Parties that normal weather conditions, commercial impracticability, or inability to procure labor or materials for any reason other than a Force Majeure Event shall not constitute an excuse for failure to perform the Work within the time for performance required by this Engineering Service Contract. Further, events of any type affecting Engineering Services Contractor’s Subcontractors and Suppliers shall not be considered a Force Majeure Event excusing non-performance of this Engineering Services Contractor. Any Party wishing to claim a Force Majeure Event 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 Event 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 Event claimed as an excuse for non-performance terminates; provided, however, that in no event may either party claim a Force Majeure Event as an excuse for non-performance or failure of timely performance if performance will be delayed for less than five (5) consecutive days. The sole remedy for any permitted delays resulting from a Force Majeure Event shall be an extension of the period of time for performance of those obligations affected by the Force Majeure Event occurrence for the minimum time period necessary to overcome the effect of such Force Majeure Event, provided, however, that if a claimed Force Majeure Event exceeds more than thirty (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.
- (b) The Parties agree that the already existing COVID-19 pandemic (or any variant thereof) will be regarded as a Force Majeure Event only if there are further governmental regulations (e.g., public shut-down orders, border closures, quarantine orders, etc.) that come into effect after the effective date of any Purchase Order issued under this Engineering Service Contract and that prevents a Party from fulfilling its obligations.

SECTION 9. DISPUTE RESOLUTION

- (a) Any dispute arising under this Engineering Service Contract shall, upon written notice by either Party to the other Party, be submitted to non-binding mediation under the American Arbitration Association's Commercial Mediation Procedures for Large, Complex Commercial Disputes before any litigation on said dispute may be commenced; and any such mediation in which more than \$1,000,000 is in dispute shall include at least one meeting between senior executives of each Party. During any dispute, the Parties shall continue to perform this Engineering Service Contract and shall abide by the decision of Owner's Authorized Representative while any mediation and any litigation is pending,
- (b) This Engineering Services Contract shall be governed by, interpreted, construed, and enforced in accordance with the laws of the State of Alabama, applied without giving effect to conflicts-of-law principles. Any controversy or claim arising out of or relating to this Engineering Services Contract shall be brought and prosecuted exclusively in, and the parties irrevocably submit to, the Circuit Court of the State of Alabama in Mobile County, or in the United States District Court for the Southern District, Southern Division, of Alabama, and the parties

irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined exclusively and only in and by either of the state or federal courts sitting in Mobile County, Alabama. Furthermore, the parties irrevocably waive and agree not to assert by way of motion, as a defense or otherwise in any such action or proceeding, any claim that any party is not personally subject to the jurisdiction of the state or federal court sitting in Mobile County, Alabama, that such action or proceeding is brought in an inconvenient forum, that the venue of such action or proceeding is improper or that this Engineering Services Contract may not be enforced in or by such state or federal court sitting in Mobile County, Alabama.

SECTION 10. SUBCONTRACTORS AND SUPPLIERS

- (a) Owner shall have the right to approve all Subcontractors and Suppliers employed for the Work. Engineering Services Contractor shall provide Owner the identification of all Subcontractors and Suppliers that Engineering Services Contractor intends to engage in connection with the Work. All Subcontractors shall be subject to the terms, conditions and provisions of this Engineering Service Contract, and Engineering Services Contractor shall cause such terms, conditions, and provisions to be included in all subcontracts. Owner, at its discretion, may require that Engineering Services 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 this Engineering 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) **Damage to Other Contractors.** If Engineering Services Contractor or any of its Subcontractors, or Suppliers cause any loss or damage to any separate contractor with a prior, concurrent or subsequent contract on Owner's Site, and if such contractor makes a claim against Owner, on account of any loss so sustained, Owner shall notify Engineering Services Contractor who shall indemnify and save harmless Owner against any expenses arising therefrom. Engineering Services Contractor's obligation to indemnify and save harmless Owner against any damages or costs arising from claims of other contractors shall be in addition to liquidated damages, if any, as set out in a Purchase Order.

SECTION 11. ENGINEERING SERVICES CONTRACTOR PERSONNEL

- (a) Any employee of Engineering Services Contractor, or any of its Subcontractors, that is objectionable or unsatisfactory to Owner shall be removed from the Work, including Owner's Site (if applicable), and replaced by an employee satisfactory to Owner.
- (b) Engineering Services 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 Engineering Services Contractor's employees in connection with the Work or otherwise.
- (c) Engineering Services Contractor shall provide to Owner proof of pre-hire 10 panel drug screening in compliance with Owner's Site Rules for all Engineering Services Contractor and Subcontractor personnel, inclusive of supervision and site management, who shall enter onto any real property owned or controlled by Owner. In the event of an accident on any real property owned or controlled by Owner (or for other reasonable cause), Owner shall have the right under this Engineering Services Contract to direct the drug or alcohol screening of any Engineering Services Contractor or Subcontractor employee, agent or invitee.

SECTION 12. WORK TO BE FURNISHED BY OWNER

- (a) Except as otherwise expressly set forth in the Purchase Order, Owner shall have no obligations in respect to the performance of the Work.
- (b) Owner disclaims any representation or warranty as to the accuracy or completeness of reference drawings, if any, furnished by Owner that can be reasonably checked by Engineering Services Contractor before use.

SECTION 13. NOTICES

All notices, demands and other communications required or permitted to be given under this Engineering Services Contract shall be in writing and shall be deemed to be made or given when personally delivered or four (4) business days after being mailed by registered or certified United States mail, postage prepaid, return receipt requested, or one (1) business day after being sent by Federal Express or other recognized courier guaranteeing overnight delivery, postage prepaid, to the parties at the following respective addresses, or at such other address as a respective party may designate from time to time pursuant to a notice duly given hereunder to the other party. Notwithstanding anything to the contrary, no notice from the Engineering Services Contractor shall be deemed to have been given to Owner unless an e-mail copy thereof is sent to the email addresses for Owner below.

A. If to Owner:

AM/NS Calvert LLC
1 AM/NS Way
Calvert, Alabama 36513
Attention: Chief Procurement Officer
and by Email to: Purchasing.Calvert@arcelormittal.com

and

AM/NS Calvert LLC
1 AM/NS Way
Calvert, Alabama 36513
Attention: Chief Financial Officer

B. If to Contractor:

[To the representative and address of Contractor listed on the Execution Sheet]

SECTION 14. STANDARD OF CARE; WARRANTIES; PROFESSIONAL LIABILITY;

- (a) In addition to any other warranties by Engineering Services Contractor, express or implied, Engineering Services Contractor represents and warrants to Owner that all services provided by Engineering Services Contractor shall (i) satisfy all requirements set forth in the Statement of Work; (ii) strictly conform with all requirements regarding quality contained in this Engineering Service Contract, (iii) perform all Work in accordance with standards of skill, care and professional judgment employed generally by professional engineering firms enjoying high national reputation. The Parties agree that this Engineering Service Contract is a contract for the provision of professional engineering services and not a construction contract or a contract for the sale of goods.
- (b) All personnel performing Engineering Services under this Engineering Service Contract shall have and maintain all necessary and customary certifications, licenses and skills applicable to their performance in accordance with the standards set forth in Section 14(a) above and as required by Applicable Laws.

(c) In the event Engineering Services Contractor breaches its obligations set forth in Sections 14(a) and (b) above, Engineering Services Contractor's professional liability to Owner shall be as follows:

(i) Any Work not strictly conforming with the foregoing requirements shall at Owner's request and at Owner's convenience, but at Engineering Services Contractor's sole expense, be re-performed as may be reasonably elected by Owner. Engineering Services Contractor shall promptly inform Owner as to when Engineering Services Contractor will re-perform the non-conforming Work. If, in the reasonable judgment of Owner, the response time proposed by Engineering Services Contractor is not adequate to avoid or minimize Owner's downtime or loss of operation or, if Engineering Services Contractor cannot be contacted, Owner may re-perform or arrange for re-performance by others at Engineering Services Contractor's expense.

(ii) Engineering Services Contractor shall also be liable to Owner for Owner's reasonable costs of any repair, modification or replacement of any construction, erection, fabrication or installation work on the Project that is necessary as a result of defects, errors, or omissions in Engineering Services Contractor's Work. Notwithstanding anything to the contrary, Owner's reasonable costs of any repair, modification or replacement of any construction, erection, fabrication or installation work on the Project that are necessary as a result of defects in Engineering Services Contractor's defective Work shall be deemed not to be consequential, indirect or special damages for purposes of the exclusion thereof in Section 22(g) of this Engineering Service Contract.

SECTION 15. INSPECTION

(a) The good faith decision of Owner's Authorized Representative or Owner's Engineer that any Work and services do not in all respects comply with this Engineering Service Contract shall be final and conclusive, subject to the dispute resolution procedure set forth in Section 9 above. No failure on the part of the Owner's Authorized Representative, Owner's Engineer, or any of Owner's employees to inspect or reject any services at any time shall be deemed an acceptance of any defective services, nor shall it prevent subsequent inspection or rejection. Engineering Services Contractor shall promptly replace all such rejected services at its own expense.

(b) Neither payment to Engineering Services 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 Owner's Authorized Representative or Owner's Engineer, shall in any respect be taken as an approval of or admission by Owner or by the Owner's Authorized Representatives or Owner's Engineer of the quality of the Work or any part of the Work and shall in no way release Engineering Services Contractor from its warranties and other obligations under this Engineering Service Contract.

SECTION 16. AUDIT RIGHTS AND TESTING

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

(a) The right of audit may be exercised at Engineering Services Contractor's facilities by designated representatives of Owner at any time during normal working hours and from time to time during the duration of this Engineering Services Contract, and for a period of three (3) years after expiration of the Engineering Services Master Agreement and final payment therefor; provided, however, that the Engineering Services Contractor's books and records pertaining to Work performed for a lump sum price determined prior to commencement of Work or other similarly priced basis shall not be subject to audit except to the extent necessary to establish

that the Work was performed, and when it was performed, and to the extent that any Changed Work is priced on other than a lump sum or similarly priced basis.

- (b) Engineering Services Contractor shall maintain during the course of the Work, and retain, for not less than three (3) years after completion and acceptance by Owner of the Work, complete and accurate records of all of Engineering Services Contractor's costs which are chargeable to Owner and which are subject to audit pursuant to this Engineering Services Contract. The records to be maintained and retained by Engineering Services 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 Engineering Services 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 Site Rules and environmental compliance programs.
 - (iv) Amounts paid by Engineering Services Contractor for labor.
- (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. Any overcharges disclosed by an audit will be subject to reimbursement to Owner.
- (d) This Section 16 shall apply to Subcontractors.

SECTION 17. UNDERSTANDING OF REQUIREMENTS; NON-INTERFERENCE; CLEANING UP, WASTE DISPOSAL AND ENVIRONMENTAL CONTROL

- (a) Engineering Services Contractor acknowledges that it has made an investigation of the Work and the Job Site and thoroughly understands them.
- (b) Engineering Services Contractor shall at all times perform the 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 contractors, subcontractors or suppliers.
- (c) For Work and services performed by Engineering Services Contractor on Owner's Site, if any, Engineering Services Contractor shall, at all times, comply with Owner's Site Environmental Requirements. In general, Engineering Services Contractor shall be responsible for the proper handling, storage, use, and disposal of all materials, including Hazardous Materials, brought onto Owner's Site in accordance with, and not necessarily limited to, the regulations of the United States Environmental Protection Agency ("EPA"), the Department of Transportation ("DOT"), and the Alabama Department of Environmental Management ("ADEM"). Engineering Services Contractor shall at all times keep all real property of the Owner free from accumulations of scrap, excess material and solid waste. Engineering Services Contractor shall provide and maintain trash receptacles at necessary locations at the Job Site to keep the Job Site clear of waste materials and rubbish. Upon completion of the Work, Engineering Services Contractor shall remove all tools, scaffolding, surplus materials and solid waste and leave the Job Site in a safe condition and shall clean all glass surfaces and leave the Job Site "broom clean" or its equivalent, except as otherwise provided in this Engineering Services Contract.

- (d) If reasonable precautions will be inadequate to prevent environmental harm or foreseeable bodily injury or death to persons resulting from Hazardous Material encountered at, on, under or about the Job Site by Engineering Services Contractor, its Subcontractor, agents or employees, Engineering Services Contractor shall, upon recognizing the condition, take all appropriate measures in compliance with Applicable Laws to mitigate the consequences which arise or may arise that is noted or discovered by Engineering Services Contractor during performance of the Work, including but not limited to immediately stopping the Work in the affected area and reporting the condition to the Owner as described in Subsection (d) below.
- (e) Engineering Services Contractor shall immediately provide telephonic notice, and written notice by overnight delivery within two (2) calendar days of the telephonic notice, to Owner if:
 - (i) any Hazardous Material or any unsafe conditions occurring at, on, under or about or nearby the Job Site is observed or discovered by Engineering Services Contractor during performance of the Work;
 - (ii) Engineering Services Contractor becomes aware of or is served with notice of violation of any Applicable Laws which relates to the Work;
 - (iii) proceedings are commenced, and Engineering Services Contractor becomes aware of such proceedings, which could lead to revocation of permits, licenses or other governmental authorizations which relate to the Work;
 - (iv) permits, licenses or other governmental authorizations relating to the Work are revoked, and Engineering Services Contractor is aware of such revocation;
 - (v) administrative action or litigation is commenced against Engineering Services Contractor which could affect the Work;
 - (vi) Engineering Services Contractor becomes aware that any equipment or facilities related to the Work are not in compliance with Applicable Laws; or
 - (vii) reasonable precautions will be inadequate to prevent environmental harm or foreseeable bodily injury or death to persons resulting from Hazardous Material encountered on the Job Site by Engineering Services Contractor, its Subcontractors, agents or employees.
- (f) Except for fuel, oil, gasoline and other supplies and materials required to perform its Work, Engineering Services Contractor shall not permit, authorize or allow any Hazardous Material to be used, placed at, on, under or about Owner's facility or the Job Site.
- (g) If any Hazardous Material not required to perform the Work is used, placed or becomes located on or under Owner's facility or the Job Site as a result of Engineering Services Contractor's Work, Engineering Services Contractor shall properly and immediately remove such Hazardous Material in compliance with Owner's Site Environmental Requirements and all Applicable Laws. Engineering Services Contractor shall also promptly remove any Hazardous Material introduced by Engineering Services Contractor that was necessary to perform the Work upon completion of the Work and shall do so in compliance with all Applicable Laws and Owner's Site Environmental Requirements. This removal or remediation obligation shall survive for three (3) years following the termination or expiration of this Engineering Services Contract.
- (h) All Hazardous Material related to the Work shall be packaged by Engineering Services Contractor in accordance with Owner's Site Environmental Requirements and all Applicable Laws.
- (i) Engineering Services Contractor shall indemnify, defend and save harmless Owner and Owner's Indemnitees against any Claims related to any act of water, air or land pollution or spill, release or threatened release of Hazardous Material in violation of Applicable Laws (including Engineering Services Contractor's failure to comply with Owner's Site Environmental Requirements) by Engineering Services Contractor or Engineering Services Contractor's employees, Subcontractors or agents at the Job Site or Owner's facility or any improper use, handling, transportation, management, storage, treatment or disposal of Hazardous Material in violation of Applicable Laws off of the Job Site or off of Owner's Site. Notwithstanding the foregoing obligation to indemnify, defend and save harmless, in the event that Engineering Services Contractor, its Subcontractors, agents or employees neither created nor contributed to the existence of Hazardous Material, whether latent or patent, or the release thereof or the

violation of Applicable Laws relating thereto, at the Job Site prior to the date the performance of the Work is commenced hereunder, then it is understood that Engineering Services Contractor, its Subcontractors, agents or employees shall have no liability for any such prior condition, unless (and only to the extent) a loss, cost or damage arising out of the prior condition is caused or exacerbated by the negligent or willful acts or omissions of Engineering Services Contractor, its Subcontractors, agents or employees. The preceding sentence shall not apply in situations where Engineering Services Contractor is engaged to remediate or remove any such prior condition, or the Work, by its nature (such as demolition work), necessarily encompasses identification, remediation and/or removal of any such prior condition.

- (j) Engineering Services Contractor acknowledges that Owner makes no representations regarding environmental conditions at the Job Site or Owner's Site.
- (k) The continuing rights and obligations of the Parties under this Section 17 shall survive the completion or termination of the Work under this Engineering Services Contract.

SECTION 18. OWNER'S RIGHT TO TERMINATE

- (a) Owner may terminate, in whole or in part, this Engineering Service Contract for Owner's convenience at any time upon written notice to Engineering Services Contractor. Engineering Services Contractor shall be entitled to all of its reasonable direct costs for performance of this Engineering Service Contract up to the date of termination. Owner shall reimburse Engineering Services 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 Engineering Services Contractor's obligations to its Subcontractors or Suppliers; provided, however, that Engineering Services Contractor shall take reasonable steps to mitigate its charges to Owner. Owner, in its' sole discretion, shall be entitled to take delivery of anything for which it is being charged by Engineering Services Contractor hereunder. In no event shall Engineering Services Contractor be entitled to receive unrealized profits on any Work not performed as a result of such termination. In the event of a termination for Owner's convenience, Engineering Services Contractor shall:
 - (i) stop performing all 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 due to Engineering Services Contractor hereunder, transfer title to Owner of all Work in progress and completed Work;
 - (v) deliver to Owner such completed or partially completed plans, drawings and other information that, if the Engineering Service Contract had been completed, would have been required to be furnished (or returned) to Owner;
 - (vi) deliver to Owner a list of vendors, Suppliers and Subcontractors that have furnished materials, equipment or services in connection with the Work; and
 - (vii) take such steps as Engineering Services Contractor reasonably may deem appropriate to effect an orderly closing down of the Work.
- (b) If Engineering Services Contractor shall persistently or repeatedly fail or consistently perform defective Work or refuse to diligently perform the Work or shall fail to make prompt payment

to its Subcontractors or Suppliers for materials or labor, or shall disregard Applicable Laws, Owner's Site Rules or safety considerations or the instructions of Owner or shall otherwise be in material breach of this Engineering Service Contract, then Owner, without prejudice to any other right or remedy it may have and after fifteen (15) days opportunity for Engineering Services Contractor to cure after written notice, may terminate this Engineering Service Contract upon written notice to Engineering Services Contractor and may take possession and control of the Work and may finish the Work by any method Owner deems expedient. In the event of such termination, Engineering Services Contractor shall:

- (i) stop performing all 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) transfer title to Owner of all Work in progress and completed Work;
 - (v) deliver to Owner such completed or partially completed plans, drawings and other information that, if the Engineering Service Contract had been completed, would have been required to be furnished (or returned) to Owner;
 - (vi) deliver to Owner a list of vendors, Suppliers and Subcontractors that have furnished materials, equipment or services in connection with the Work.
- (c) Upon termination pursuant to Section 18(b), Engineering Services Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price shall exceed the Owner's costs of finishing the Work, including reasonable compensation for additional managerial or administrative services required of Owner, such excess shall be paid to Engineering Services Contractor. If such Owner's costs shall exceed the unpaid balance of the Contract Price, Engineering Services Contractor shall pay the difference to Owner promptly after receiving a written demand therefor.
- (d) Engineering Services Contractor will obligate its Suppliers and Subcontractors to the same conditions with respect to termination as those applicable to Engineering Services Contractor as set forth above.

SECTION 19. ENGINEERING SERVICES CONTRACTOR'S RIGHT TO TERMINATE

Engineering Services Contractor shall have the right to terminate this Engineering Service Contract if, at any time after sixty (60) days written notice and opportunity to cure, Owner fails to comply with a material provision of this Engineering Service Contract. Any such termination shall be deemed to be a termination for Owner's convenience pursuant to Section 18(a) above.

SECTION 20. NO LIENS; TITLE

- (a) This shall be a "no lien" agreement. To the maximum extent allowable by law, Engineering Services 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 Owner Companies in connection with any goods, services or labor supplied or performed in connection with this Engineering Service Contract, and Engineering Services 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, including those contained in Exhibit B. At Owner's request,

prior to engaging any Subcontractor or Supplier in connection with this Engineering Service Contract, Engineering Services Contractor shall obtain an executed Final Release and Waiver of Right to Lien from such Supplier or Subcontractor conforming to Exhibit B to these GTCs attached hereto. As a condition precedent to each payment otherwise due under this Engineering Service Contract, Engineering Services Contractor shall first deliver to Owner a fully executed final or partial, as applicable, release and waiver of right to lien, in the form of Exhibit A and Exhibit B, from each Supplier and Subcontractor who has supplied or performed any services for which payment is sought.

- (b) Engineering Services 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 Work.
- (c) Engineering Services Contractor shall promptly satisfy and discharge and shall indemnify, defend and hold harmless Owner Companies from and against all liens and claims therefor in connection with the Work or the performance thereof. If any such lien or claim therefor shall at any time be filed or asserted against any property of any Owner Companies, Engineering Services Contractor shall at its own expense immediately take all such action as is necessary to remove or satisfy such lien. In addition, Engineering Services Contractor shall immediately reimburse Owner for all costs or expenses incurred by Owner in order to discharge or contest such lien or claim therefor, including without limitation reasonable attorney's fees, expert fees and court costs. No payment by Owner or acceptance of any services supplied or performed or improvements constructed pursuant to this Engineering Service Contract shall constitute a waiver of Engineering Services Contractor's obligation to indemnify, defend and hold harmless.
- (d) In the event that any Supplier or Subcontractor or any of their employees notifies Owner that Engineering Services Contractor has failed to make timely payment to such Supplier, Subcontractor or employee in connection with any Work, then upon three (3) days' notice to Engineering Services Contractor, Owner may, but shall be under no obligation to, pay such Supplier, Subcontractor or employee on Engineering Services Contractor's behalf from any amount that remains payable to Engineering Services Contractor under this Engineering Service Contract. Owner's obligation to pay Engineering Services Contractor shall be reduced to the extent of any such payments Owner makes to any Supplier, Subcontractor or employee on Engineering Services Contractor's behalf. Notwithstanding this Section 20 or any other term, condition or provision of this Engineering Service Contract, nothing in this Engineering Service Contract shall create, establish or imply the existence or right of any third-party beneficiary hereunder.
- (e) Engineering Services Contractor shall transfer all Work to Owner so as to vest in Owner full, exclusive and unencumbered title to and ownership thereof, free and clear of all liens, taxes, security interests or third party claims of any nature whatsoever except only those created by, under or through Owner.
- (f) All right, title and interest (including without limitation any security interest(s)) to and in any of Owner's property that has been placed into Engineering Services Contractor's possession or custody and of any property that Owner has paid Engineering Services Contractor for but has not yet received ("Owner Property") shall at all times be and remain Owner's alone, and Engineering Services Contractor shall have no ownership or other interest therein. Engineering Services Contractor hereby authorizes Owner to prepare and file such Uniform Commercial Code financing statements confirming Owner's continued ownership of the Owner Property as Owner reasonably deems necessary or appropriate to protect its interests. Engineering Services Contractor also agrees to execute and deliver such instruments, including financing statements and related amendments or continuation statements, as are reasonably necessary in order to fully protect the rights, title and interest of Owner in and to all such Owner Property. Owner may, at its option, notify the holder of any lien or security interest in

Engineering Services Contractor's personal property of Owner's continued ownership of the Owner Property.

- (g) Engineering Services Contractor shall segregate all Owner Property from any other inventory or material in its possession to the maximum extent possible. Engineering Services Contractor shall handle, store and maintain all Owner Property in a safe, dry and secured area, protected as appropriate against weather, condensation, water damage and theft. Engineering Services Contractor shall insure that all Owner Property is properly tagged, marked or otherwise identified as Owner Property at all times. Engineering Services Contractor's inventory control system shall be operated and maintained in such a manner as to identify any and all Owner Property and permit Owner to determine the physical location of all such property. Upon 24-hours written notice, Owner may at any time during normal business hours enter Engineering Services Contractor's premises and remove any or all Owner Property. Owner shall have the right, upon reasonable notice to Engineering Services Contractor, to enter upon Engineering Services Contractor's premises for the purposes of inspecting any Owner Property and verifying Engineering Services Contractor's compliance with this Section 20.
- (h) Engineering Services Contractor agrees to furnish Owner with immediate written notice of the seizure, by process of law or otherwise, of any of Owner's Property.

SECTION 21. FINANCIAL CONDITION AND GUARANTY BONDS

- (a) Engineering Services Contractor warrants 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 Engineering Service Contract; and Engineering Services Contractor shall at Owner's request furnish financial statements evidencing said sufficient financial condition. Engineering Services Contractor also warrants 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 Engineering Services Contractor's financial condition.
- (b) Notwithstanding Subsection 21(a) above, prior to the commencement of the Work, Engineering Services Contractor shall furnish, if requested by Owner, bond(s) as set forth in Exhibit A with such surety or sureties acceptable to Owner covering the faithful performance of this Engineering Services Contract by Engineering Services Contractor and the payment of all obligations of Engineering Services Contractor arising hereunder. In the event that Owner requests such a bond(s), 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 Engineering Services Contract.

SECTION 22. INDEMNIFICATION; GENERAL LIABILITIES

- (a) To the fullest extent permitted by applicable laws, and without limiting any other rights and remedies to which Owner may be entitled under this Engineering Services Contract, Engineering Services Contractor hereby agrees to and shall indemnify, defend (at Owner's option and with counsel acceptable to Owner) and save harmless the Owner's Indemnitees from and against any and all Claims, and all losses, liabilities, judgments, decrees, fines, penalties, damages, obligations, expenses, and amounts paid in settlement and investigation and costs and charges of any kind, including, but not limited to attorneys' fees, that may be alleged or asserted against, or incurred by, an Owner Indemnitee, which arise out of, relate to, or result in any way from any one or more of the following: (i) Engineering Services Contractor's fault in the performance of the Work (including any Subcontractor's performance of any portion of the Work); (ii) Engineering Services Contractor's breach of this Engineering Services Contract; (iii)

any representation or warranty made by Engineering Services Contractor in this Engineering Services Contract being untrue, incorrect, false, or misleading; (iv) Engineering Services Contractor's violation of, or noncompliance with, any Applicable Laws (including, but not limited to, Environmental Laws) in the performance of the Work; (v) any personal injury, death, disease, sickness, or property damage or destruction arising out of or in any way related to the Work; (vi) the failure to pay all duties, sales, use and other taxes and assessments, including penalties and punitive damages, which are or may be required in any contract present or future, or state or federal laws, upon or in respect to all salaries, wages or other compensation of all persons employed by Engineering Services Contractor or its Subcontractors or Suppliers in connection with the performance of any Work covered by this Engineering Services Contract; (vii) any actual or asserted infringement or improper appropriation of use by Owner or Engineering Services Contractor or any of their affiliates of trade secrets, proprietary information, know-how, copyright rights (both statutory and nonstatutory) or patented or unpatented inventions, or for actual or alleged unauthorized imitation of the work of others, arising out of the use or sale of materials, equipment, methods, processes, designs, information, or other things (including construction methods, construction equipment, and temporary construction facilities) furnished by Engineering Services Contractor, or its Subcontractors or Suppliers in or for the performance of the Work; or (viii) either directly or indirectly, any actual or alleged release or threat of release of any Hazardous Material into the outdoor or indoor environment, or public or private nuisance, in connection with the Work, including any acts or omissions of Engineering Services Contractor, its Subcontractors, Suppliers or affiliates in the performance of the Work.

- (b) In the event of any Claim for which Engineering Service Contractor has an obligation under this Engineering Service Contract to indemnify, defend or hold harmless Owner's Indemnitees, immediately upon Owner's demand Engineering Services Contractor shall assume at its expense, on behalf of Owner's Indemnitees, the defense of any action at law or in equity that may be brought against Owner's Indemnitees and shall pay on behalf of Owner's Indemnitees the amount of any judgment or award that may be entered against Owner's Indemnitees. Owner shall have the right, at its sole option and expense, to participate in such defense, without relieving Engineering Services Contractor of its obligations under this Engineering Service Contract; and if Engineering Services Contractor fails to fully perform its obligations, Owner may perform them or arrange to have them performed at Engineering Services Contractor's expense, without relieving Engineering Services Contractor of its obligations under this Engineering Service Contract. Engineering Services Contractor expressly agrees that it may be joined as an additional or third-party defendant, and may be held liable for damages, contribution or indemnity, in any action at law or otherwise, in which the employee or employees of Engineering Services Contractor or any other person, their heirs, assigns or anyone otherwise 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. In the event Engineering Services Contractor fails or refuses to indemnify, defend and hold harmless as specified in this Engineering Service Contract, then, in addition to any other damages allowable by law, Engineering Services Contractor shall be liable to Owner for the costs (including without limitation reasonable attorney's fees) of enforcing Engineering Services Contractor's agreement to indemnify, defend and hold harmless.
- (c) Engineering Services Contractor's indemnification obligations shall apply regardless of whether the party to be indemnified was concurrently negligent, whether actively or passively. The indemnification obligations under this Engineering Services Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits paid by or for Engineering Services Contractor for any Subcontractor or Supplier under worker's compensation acts, disability benefit acts or other employee benefit acts.
- (d) If any Claims are brought against any of Owner's Indemnitees by any person directly or indirectly employed by Engineering Services Contractor, or any person for whose acts

Engineering Services Contractor may be liable, the indemnification obligation of Engineering Services Contractor shall be absolute, and shall not be limited or affected in any way by any claims or benefits paid or payable by or on behalf of Engineering Services Contractor under any Workers Compensation statutes, disability benefit statutes or other employee benefit statutes; Engineering Services Contractor expressly waives, against Owner's Indemnitees, any provision of any Worker's Compensation statutes whereby Engineering Services Contractor could preclude its joinder with any Owner's Indemnitees as an additional defendant; and to the extent it may relate to Engineering Services Contractor's agreement to indemnify, defend and hold harmless Owner's Indemnitees under this Engineering Service Contract for employee injuries, illness, death or damages, Engineering Services Contractor specifically agrees not to claim any Worker's Compensation statutory immunity as a defense against Owners Indemnitees.

- (e) Engineering Services Contractor's indemnification and related obligations set forth in this Section 22 shall survive the expiration or termination of this Engineering Service Contract. In the event a Claim has arisen prior to expiration or termination of this Engineering Service Contract and Engineering Services Contractor is not adequately performing its obligations to indemnify, defend and hold harmless, Owner reserves the right to retain sufficient funds under this Engineering Service Contract to cover Engineering Services Contractor's obligations.
- (f) Subsections 22(b), (c), (d) and (e) above shall also apply to Contractor's agreements to indemnify, defend and hold harmless Owner's Indemnitees under Sections 10, 11, 17, 20, 24 and 26.
- (g) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER THIS ENGINEERING SERVICES 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 CONTAINED IN THIS ENGINEERING SERVICES CONTRACT OR OTHER LIABILITIES TO WHICH EITHER PARTY HAS EXPRESSLY AGREED UNDER THESE GTCs.

SECTION 23. RISK OF LOSS; INSURANCE

- (a) Prior to delivery to Owner, all of Engineering Services Contractor's work product, deliverables and supporting data shall remain at the risk of Engineering Services Contractor, who shall be responsible for all loss and damage thereto and shall replace, correct or otherwise cure, at its own expense, all such loss and damage whether or not due to the fault of Engineering Services Contractor. On completion of this Engineering Service Contract, title and risk of loss or damage shall pass to Owner.
- (b) Engineering Services Contractor shall maintain and shall require each of its Subcontractors, if any, to maintain the following insurance coverages with not less than the limits of coverage specified and set out below or that Engineering Services Contractor maintains as part of its general program of business insurance, whichever are greater, and for the coverage periods as long as the Engineering Services Master 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 (and any updated versions 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 include but not be limited to

contractual liability coverage as applicable to any indemnity, defense and hold harmless agreements in this Engineering Service Contract.

- (ii) Workers Compensation and occupational disease insurance securing compensation for the benefit of Engineering Services 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 Engineering Services Contractor has an accepted program of self-insurance under Applicable Laws or participates in an applicable monopolistic state Workers Compensation fund. If applicable, Engineering Services Contractor shall also carry Longshore and Harbor Workers Compensation Act and/or Jones Act coverages or similar coverage as may be required for any personnel 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's Site; and
- (v) Professional liability coverage; and
- (vi) Limits of coverage:

Commercial General Liability:

- A. Bodily injury and property damage: \$1 million per occurrence
- B. Products/completed operations: \$1 million per occurrence
- C. General aggregate: \$2 million
- D. Products/completed operations aggregate: \$2 million

Automobile Liability: \$1 million per occurrence

Workers' Compensation : Statutory limit

Employer's Liability: \$1 million

Excess Liability:

- A. Excess per occurrence and general aggregate: \$10 million
- B. Excess products/completed operations: \$5 million

Minimum Professional Liability: In the event Contractor provides any design work, engineering work, consulting services or other professional services under this Engineering Services Contract, Engineering Services Contractor shall provide Errors and Omissions Insurance Coverage during the term of the Engineering Services Contract and for 7 years following the Final Acceptance of the Work: \$5 million per claim

U.S. Longshore & Harbor Workers' Compensation Act: Statutory limit

Jones Act : \$1 million

- (c) All required policies of insurance shall contain a waiver of subrogation and waiver of liens in favor of Owner's Indemnitees. 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 Work of the named insured or on the real property of any Owner Companies,

and with respect to Claims by employees of Engineering Services Contractor or their personal representatives, heirs, and beneficiaries. Such coverage shall be primary to and noncontributory with any other insurance carried by Owner.

- (d) The required policies of insurance for commercial general liability, employers liability, motor vehicle liability, and professional liability shall not have deductibles or self-insured retentions which are greater than the lesser of (i) five percent (5%) of the coverage limit provided by the policy, or (ii) the deductibles or self-insured retentions in Engineering Services Contractor's general program of business insurance, unless approved in writing by Owner. All deductibles on insurance required to be obtained under this Engineering Service Contract shall be borne by Engineering Services 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 qualified to do business in the jurisdiction(s) in which the work is performed, and who are rated by AM Best as A+ or better with a size rating of VII or better. As soon as practicable upon execution of Engineering Services Master Agreement and before commencing any Work hereunder, Engineering Services Contractor shall provide Owner with certificates of insurance evidencing all required coverages, listing all named insureds 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. Unless directed otherwise by Owner, Contractor shall submit all certificates of insurance to ISNetworld (www.ISNetworld.com) for review as part of Engineering Services Contractor's ISNetworld enrollment program. In addition, Engineering Services Contractor shall submit a copy of all certificates of insurance to Owner at the following address: AM/NS Calvert LLC, attention: Purchasing Department, P.O. Box 456, Calvert, AL 36513. Engineering Services Contractor shall submit to ISNetworld and Owner certificates of renewal not less than ten (10) days before the expiration dates of the expiring policies. Each policy of insurance shall not contain any exclusions for work performed by Subcontractors and must incorporate any additional endorsements as Owner may reasonably request. Upon Owner's reasonable request if a Claim is made against any Owner's Indemnitees, Engineering Services Contractor shall, and shall cause each its Subcontractors to, make available to Owner true and complete copies of the original policies of insurance, including all riders and endorsements thereto, and bearing notations or accompanied by other evidence satisfactory to Owner of the payment of premiums.
- (f) Engineering Services 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) Engineering Services Contractor waives all rights and claims of subrogation against any party, including Owner's Indemnitees, for all damages, losses, fines, expenses, costs, and fees. Engineering Services Contractor shall require similar waivers in favor of Owner and Engineering Services Contractor from its Subcontractors.
- (h) Failure of Engineering Services Contractor to provide certificates evidencing the required insurance shall under no circumstances be deemed a waiver of this requirement. The obligation of Engineering Services Contractor to provide the required policies of insurance shall not limit in any way the liability or obligation assumed by Engineering Services Contractor under this Engineering Services Contract. Failure to maintain all required insurance coverage may result in the cancellation of this Engineering Service Contract and all other Engineering Service Contracts and any other contracts between the Owner Companies and Engineering Services Contractor.

- (i) Engineering Services Contractor shall cause each of its Subcontractors that enters onto any real property of any of the Owner Companies to obtain the required insurance and to provide to Owner a certificate of insurance prior to the start of Work.
- (j) Engineering Services Contractor shall be responsible for providing all other insurance and employee benefits required of Engineering Services Contractor and any of its Subcontractors under Applicable Laws.
- (k) Engineering Services Contractor's provision of required insurance shall not relieve or otherwise limit any of Engineering Services Contractor's other obligations or potential liabilities under this Engineering Service Contract.

SECTION 24. PATENTS AND COPYRIGHTS

- (a) Unless otherwise specified in writing in the Purchase Order, and subject to Section 24(b) below, all documents and software that Owner furnishes to Engineering Services Contractor and all documents and software that Owner purchases from Engineering Services Contractor or that are created under this Engineering Service Contract at Owner's expense and as part of the Work, whether in written or electronic or other fixed form, are or when hereafter created shall become and shall remain the sole property of Owner; and Engineering Services Contractor shall treat all such documents and software as confidential and shall not duplicate, copy or transmit such documents or software to third parties or otherwise use such documents or software for any purpose except as required by Applicable Laws or as necessary for Engineering Services Contractor to perform its obligations under this Engineering Service Contract, but only expressly subject to Owner's rights. Owner shall own the copyrights applicable thereto; and Engineering Services 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 documents or software shall not be construed as a waiver of any of Owner's rights under this Section 24.
- (b) Unless otherwise specified in writing in the Purchase Order, as between Owner and Engineering Services Contractor, Engineering Services Contractor shall retain ownership of all documents and software that were or are owned by Engineering Services Contractor independently of this Engineering Service Contract ("Engineering Services Contractor's Documents") or were or are created under this Engineering Service Contract at Owner's expense as part of the Work, but such creation was accomplished only by making insubstantial or incidental changes to Engineering Services Contractor's Documents for purposes of completing the performance of Engineering Services Contractor's other obligations under this Engineering Service Contract.
- (c) Notwithstanding anything in this Engineering Service Contract or otherwise to the contrary, Owner may use and make copies of any Engineering Services Contractor's Documents or changed Engineering Services Contractor's Documents delivered to it under this Engineering Service Contract as necessary or reasonably convenient for the purpose of constructing, erecting, fabricating, operating, maintaining, repairing, servicing, rebuilding, or modifying any goods or facilities or contracting with others to perform any of those services.
- (d) Engineering Services Contractor agrees to execute and abide by any confidentiality agreements that may be required by Owner or Owner's suppliers in respect of confidential or proprietary materials or information made available to Engineering Services Contractor in connection with the Work.
- (e) Engineering Services Contractor agrees to indemnify, defend and hold harmless Owner from and against any Claims arising from (i) the infringement or alleged infringement of any United States or foreign patent or copyright by the Work performed or by any services furnished

hereunder, or by the normally intended use or mode of operation of any Work, 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 Work or services furnished hereunder; and (iii) the actual or alleged unauthorized use of any trade secrets, proprietary know-how or other proprietary rights incorporated into the Work, necessary or appropriate for the use of any goods designed or engineered hereunder in its normally intended manner or mode of operation, or otherwise related to the furnishing of any services hereunder.

- (f) Engineering Services Contractor shall, at the request of Owner, defend at Engineering Services Contractor's expense any suit brought to enforce any such Claim, it being understood that Owner will give Engineering Services Contractor written notice of the commencement of any such suit and provide such assistance to Engineering Services Contractor as reasonably required to defend same, provided that Owner's failure to give Engineering Services Contractor notice of a suit shall not limit Owner's rights to require Engineering Services Contractor to defend the suit except to the extent Engineering Services Contractor has been actually and materially prejudiced by Owner's failure. Engineering Services Contractor shall reimburse Owner, upon demand, for any reasonable out-of-pocket expense incurred by Owner in providing such assistance. Owner may be separately represented at its own expense in any such suits, actions or legal proceedings by counsel of its own selection, and Engineering Services Contractor and its counsel shall cooperate with Owner's counsel. Owner and Engineering Services Contractor shall coordinate their efforts in the defense of any such Claims, and neither Party shall seek to reach a settlement or accommodation without the approval of the other Party, which approval shall not be unreasonably withheld or delayed.
- (g) In the event that use by Owner of goods designed or engineered by Engineering Services Contractor is finally held to constitute infringement, and such use is enjoined, Engineering Services Contractor shall, at its option and its own expense, either (i) procure for Owner the right to continue to use the goods; (ii) replace the goods with non-infringing services that are acceptable to Owner; or (iii) modify the goods in a manner acceptable to Owner so that they become non-infringing.
- (h) The indemnity provided in this Section 24 does not apply to (i) any combination of the Work with other work not furnished hereunder unless Engineering Services Contractor is a contributory infringer, or (ii) any settlement of a suit or proceeding made without Engineering Services Contractor's consent.

SECTION 25. ASSIGNMENT

This Engineering Service Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns. Engineering Services Contractor shall not assign this Engineering Services Contract or any of its rights or obligations hereunder nor shall it make an assignment or pledge of any of the monies to be received by it from Owner hereunder unless it shall have procured the prior written consent of Owner to such assignment or pledge, which may be withheld in Owner's sole discretion. No assignment or subcontracting of any portion of the Work to be performed hereunder will relieve Engineering Services Contractor of its obligations under this Engineering 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 written notice to Engineering Services Contractor, to assign this Engineering Service Contract and Owner's rights or obligations under this Engineering Service Contract to (i) any person who acquires all or substantially all of Owner's assets to which this Engineering Service Contract pertains, and (ii) any of the Owner Companies.

SECTION 26. TAXES

- (a) Engineering Services Contractor shall collect and pay (i) all contributions, taxes and premiums payable under Applicable Laws and based upon the payroll of employees engaged in the performance of the Work, (ii) all sales, use, excise, income, transportation, privilege, occupational and other taxes that Engineering Services Contractor is required by law to pay, and (iii) any personal taxes on property owned by Engineering Services Contractor, and shall indemnify, defend and hold Owner's Indemnitees harmless from liability for any such contributions, taxes or premiums.
- (b) Unless otherwise specified in the Purchase Order, sales or use taxes on materials, supplies, goods, and services performed by Engineering Services Contractor to Owner for which Owner is deemed to be the user or consumer are not included in the Contract Price and will be self-assessed by Owner. All other sales and use taxes for which Engineering Services Contractor is responsible for as the consumer, including but not limited to, sales or use taxes on expendable items for which Engineering Services Contractor is responsible, and sales or use taxes on goods purchased by or provided by Engineering Services Contractor, whether or not installed or incorporated as part of real property, are included in the Contract Price. In the event Engineering Services Contractor excludes any taxes from the Contract Price in accordance with Owner's determination that said taxes are not applicable, and such determination is subsequently challenged by applicable taxing authorities, Owner shall reimburse Engineering Services Contractor for any amounts Engineering Services Contractor is finally assessed and for its reasonable costs (including reasonable attorney's fees) resulting from such challenge.

SECTION 27. CONFIDENTIALITY

- (a) Engineering Services Contractor shall not make any public announcement, press release or advertisement in connection with this Engineering Service Contract or otherwise disclose any information obtained by or provided to Engineering Services Contractor in the performance of this Engineering Service Contract without the prior written approval of Owner.
- (b) Engineering Services 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) Upon Owner's request, Engineering Services Contractor shall execute any additional agreements regarding proprietary information or trade secrets in connection with this Engineering Service Contract as Owner may reasonably request.

SECTION 28. INDEPENDENT CONTRACTOR

Engineering Services Contractor shall be and act at all times as an independent contractor hereunder, and neither Engineering Services 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 whatsoever. Engineering Services Contractor shall be responsible for all payroll taxes levied or in any way attributable to Engineering Services Contractor's employees, and nothing herein shall entitle Engineering Services Contractor or any of its employees, representatives or agents to any employee benefits of Owner. Neither Engineering Services Contractor nor any of its employees shall represent themselves to be an employee of Owner. Engineering Services 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.

EXHIBIT A

**SPECIMEN OF STANDBY LETTERS OF CREDIT,
LIEN WAIVERS AND AFFIDAVITS,
AND PAYMENT AND PERFORMANCE BOND**

Exhibit A 1 - Standby Letter of Credit for Down Payment

To: _____ (Beneficiary or advising Bank)

Standby Letter of Credit No. _____

We, _____ (the bank) _____ hereby issue our irrevocable Standby-Letter of Credit No. _____ ("Standby L/C") as follows:

Amount: _____

Date and place of expiry: _____ at our counters/your counters

Beneficiary: _____

Applicant: _____

Covering: Security for performance of the contractual obligations in the amount of _____ representing ____% of the total value of Contract no. _____ dated _____ concerning the _____ (name of Contract)

This Standby L/C is available with us /with _____ (advising Bank) by sight payment in one or more drawings, against presentation of the following document:

Beneficiary's manually signed declaration, stating the following:

"This demand is made under Standby Letter of Credit No. ____ of _____(Bank). We _____ (Beneficiary) hereby demand payment of _____ (amount) from _____ (Bank) under the aforementioned Standby Letter of Credit, which represents a sum due to us from _____ (Applicant) as the latter has failed to fulfill the contractual obligations."

All charges in connection with this Standby L/C (including possible amendment charges) will be born by the Applicant.

This Standby L/C is subject to the Uniform Customs and Practice for Documentary Credits (1993) Revision International Chamber of Commerce (ICC) Publication 500.

Exhibit A 2 - Standby Letter of Credit for Performance

To: _____ (Beneficiary or advising Bank)

Standby Letter of Credit No. _____

We, _____ (the bank) _____ hereby issue our irrevocable Standby-Letter of Credit No. _____ ("Standby L/C") as follows:

Amount: _____

Date and place of expiry: _____ at our counters/your counters

Beneficiary: _____

Applicant: _____

Covering: Security for performance of the contractual obligations for Substantial Completion of Milestones in the amount of _____ representing _____% of the total value of Contract no. _____ dated _____ concerning the _____ (name of Contract)

This Standby L/C is available with us / with _____ (advising Bank) by sight payment in one or more drawings, against presentation of the following document:

Beneficiary's manually signed declaration, stating the following:

"This demand is made under Standby Letter of Credit No. _____ of _____(Bank). We _____ (Beneficiary) hereby demand payment of _____ (amount) from _____ (Bank) under the aforementioned Standby Letter of Credit, which represents a sum due to us from _____ (Applicant) as the latter has failed to fulfill the contractual obligations for Substantial Completion of Milestones."

This Standby L/C shall be deducted pro-rata Substantial Completion of Milestones against presentation of certificates of Substantial Completion of the respective Milestone duly signed by Beneficiary and Applicant. The value of each such deduction is to be determined by Beneficiary. All charges in connection with this Standby L/C (including possible amendment charges) will be born by the Applicant.

This Standby L/C is subject to the Uniform Customs and Practice for Documentary Credits (1993) Revision International Chamber of Commerce (ICC) Publication 500.

Exhibit A 3 - Standby Letter of Credit for Warranty

To: _____ (Beneficiary or advising Bank)

Standby Letter of Credit No. _____

We, _____ hereby issue our irrevocable Standby-Letter of Credit No. _____ ("Standby L/C") as follows:

Amount: _____

Date and place of expiry: _____ at our counters/your counters

Beneficiary: _____

Applicant: _____

Covering: Security for performance of the contractual obligations regarding the Correction Period in the amount of _____ representing _____% of the total value of Contract no. _____ dated _____ concerning the _____ (name of Contract)

This Standby L/C is available with us / with _____ (advising Bank) by sight payment in one or more drawings, against presentation of the following document:

Beneficiary's manually signed declaration, stating the following:

"This demand is made under Standby Letter of Credit No. _____ of _____(Bank). We _____ (Beneficiary) hereby demand payment of _____ (amount) from _____ (Bank) under the aforementioned Standby Letter of Credit, which represents a sum due to us from _____ (Applicant) as the latter has failed to fulfill the contractual obligations regarding the Correction Period."

All charges in connection with this Standby L/C (including possible amendment charges) will be born by the Applicant.

This Standby L/C is subject to the Uniform Customs and Practice for Documentary Credits (1993) Revision International Chamber of Commerce (ICC) Publication 500.

Exhibit A 4 - Lien Waiver Forms

CONTRACTOR'S INTERIM WAIVER AND RELEASE UPON PAYMENT

STATE OF _____
COUNTY OF _____

SUBJECT PROJECT: _____
CONTRACT NO: _____
ADDRESS OF PROJECT:
1 AM/NS Way
Calvert, Alabama 36513

TO: AM/NS Calvert LLC ("Owner")

WORK PERFORMED: _____

Upon the receipt of the sum of \$ _____ for an interim payment in the amount due the undersigned Contractor, through _____, 20____, (hereinafter referred to herein as "**DATE**") for labor, materials, goods, equipment, supplies and services furnished by the undersigned for the above-described project (the "Project"), pursuant to that certain contract dated _____, 20____, (the "Contract") with Owner, the undersigned, being first duly sworn does hereby represent and certify to Owner as an inducement to Owner to make an interim payment, and as representations upon which Owner may rely in making said payment, as follows: there are no additional costs or claims for any extras or additions for labor or material with respect to the Contract and Project to **DATE** except as may be stated on the pay request submitted with this waiver; all work performed or materials installed or supplied to **DATE** are in accordance with the approved plans and specifications for the Project; all bills, charges and expenses for labor, supervision, materials, supplies, equipment, utilities, overhead, rentals and for all other things furnished or caused to be furnished for the Project by the undersigned through the date of the undersigned's previous pay request have been paid in full; there are no unpaid claims or demands of subcontractors, subsubcontractors, material suppliers, equipment suppliers, mechanics, laborers, lessors or others resulting from or arising out of any work done or materials or equipment supplied pursuant to said Contract by the undersigned or by any other contractor, subcontractor, subsubcontractor, material supplier, equipment supplier, mechanic, laborer, lessor or other person or entity, through the date of the undersigned's previous pay request; all federal and state payroll taxes and contributions for unemployment insurance, old age pensions, annuities, retirement benefits and union dues, imposed or assessed under any provision of any law (state or federal) or contract (and measured by wages, salaries or other remunerations paid by the undersigned to its employees or to its subcontractors engaged in said work or in any other operation incidental thereto) have been paid in full to **DATE**; and all payments received by the undersigned for this Project will be used exclusively for the benefit of this Project.

In consideration of the interim payment, the undersigned does hereby release Owner, and Owner's officers, employees and agents from all claims of any kind arising under or by virtue of said Contract and work done and/or materials and/or equipment supplied by the undersigned for the Project to **DATE**, and does hereby waive and release all liens and claims of lien and/or payment or performance bond claims of any kind whatsoever for any work done or labor or materials furnished for the Project to **DATE**. The undersigned individual executing this instrument on behalf of the undersigned Contractor represents and warrants that (s)he has the authority to bind the undersigned Contractor hereto.

The undersigned Contractor agrees to indemnify, defend and hold harmless Owner, and Owner's officers, employees and agents against any loss or damage, including reasonable attorney's fees, which any of them may sustain by reason of the untruth or inaccuracy of any of the foregoing statements and representations, or by reason of the filing of any claim(s), lien(s) or other action(s) by any subcontractors, sub-subcontractors, material suppliers, mechanics, laborers, lessors or others resulting from, or arising out

of, any work done, services provided or materials, goods or equipment supplied pursuant to, or in connection with, the work required by said Contract.

WITNESS the hand and seal of the undersigned this ____ day of _____, 20 ____.

(Name of Contractor Company)

Witness/Attest:

By: _____

(Signature of Person Signing)

Its: _____

(Office of Person Signing)

(AFFIX CORPORATE SEAL IF A CORPORATION)

STATE OF _____) * * * COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, as _____ of _____, whose name is signed to the foregoing instrument and who is known to me, being first duly sworn, acknowledged before me on this day that the statements and representations made therein are true, and being informed of the contents of the foregoing instrument, and being duly authorized to execute same on behalf of said entity (s)he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this ____ day of _____, 20 ____.

My Commission Expires: _____

NOTARY PUBLIC

Print Name: _____

[S E A L]

CONTRACTOR'S AFFIDAVIT

**STATE OF
COUNTY OF**

MUST BE NOTARIZED

The undersigned, first being duly sworn, deposes and says that (s)he is officer/partner (title)_____ of (Firm Name) _____, the Contractor referred to in the PARTIAL RELEASE AND WAIVER OF CONTRACTOR on the front hereof employed by Owner to furnish the Work for Owner's premises and that the total estimated amount of the Contract is \$_____ of which Contractor has received payment of \$_____; and that the following statement includes the names of all parties who have furnished or who have been contracted with by Contractor to furnish material or labor for the Work and the amounts furnished by, contracted for, paid or due and to become due each; and that the items mentioned include all labor and material required to complete said Work according to plans and specifications:

Names and Addresses	Purpose	Subcontract/ Vendor Price	Amount Paid	Amount Now Due
Total Labor and Material to Complete (If more, list on separate sheet)				

All material (except as above listed) has been paid for in full.

The undersigned further states that there are no other contracts for said Work outstanding; that there are not any claims made or to be made by and that there is nothing due or to become due to any person for material, labor, or other work of any kind done or to be done upon or in connection with said Work other than above stated; that all releases and waivers are true, correct, and genuine and delivered unconditionally; and that there is no claim either legal or equitable to defeat the validity of said releases and waivers.

By: _____(Affiant)
Its: _____

Subscribed and sworn to before me this _____ day of _____, 20__.

_____Notary Public

INTERIM WAIVER AND RELEASE UPON PAYMENT OF SUBCONTRACTORS/SUPPLIER

STATE OF _____
COUNTY OF _____

SUBJECT PROJECT: _____
CONTRACT NO: _____
ADDRESS OF PROJECT
1 AM/NS Way
Calvert, Alabama 36513

TO:

WORK PERFORMED: _____

OWNER: AM/NS Calvert LLC

Upon the receipt of the sum of \$ _____ as interim payment in the amount due the undersigned subcontractor/supplier through _____, 20____, (hereinafter referred to herein as "**DATE**") for labor, materials, goods, equipment, supplies and services furnished by the undersigned for the above-described project (the "Project"), pursuant to that subcontract/supply contract dated _____, 20____, with _____ ("Contractor"), the undersigned, being first duly sworn does hereby represent and certify to Contractor as an inducement to Contractor to make an interim payment, and as representations upon which Contractor may rely in making said payment, as follows: there are no additional costs or claims for any extras or additions for labor or material with respect to the above-described subcontract/supply contract and project to **DATE** except as may be stated on the pay request submitted with this waiver; all work performed or materials supplied or installed to **DATE** are in accordance with the approved plans and specifications for the Project; all bills, charges and expenses for labor, supervision, materials, supplies, equipment, utilities, overhead, rentals and for all other things furnished or caused to be furnished for the Project by the undersigned through the date of the undersigned's previous pay request have been paid in full; there are no unpaid claims or demands of subcontractors, subsubcontractors, material suppliers, equipment suppliers, mechanics, laborers, lessors or others resulting from or arising out of any work done or materials or equipment supplied pursuant to said subcontract/supply contract by the undersigned or by any other subcontractor, subsubcontractor, material supplier, equipment supplier, mechanic, laborer, lessor or other person or entity, through the date of the undersigned's previous pay request; all federal and state payroll taxes and contributions for unemployment insurance, old age pensions, annuities, retirement benefits and union dues, imposed or assessed under any provision of any law (state or federal) or contract (and measured by wages, salaries or other remunerations paid by the undersigned to its employees or to its subcontractors engaged in said work or in any other operation incidental thereto) have been paid in full to **DATE**; and all payments received by the undersigned for this Project will be used exclusively for the benefit of this Project.

In consideration of the interim payment, the undersigned does hereby release Contractor and Owner, and Owner's officers, employees and agents from all claims of any kind arising under or by virtue of said subcontract/supply contract and work done and/or materials and/or equipment supplied by the undersigned for the Project to **DATE**, and does hereby waive and release all liens and claims of lien and/or payment or performance bond claims of any kind whatsoever for any work done or labor or materials furnished for the Project to **DATE**. The undersigned individual executing this instrument on behalf of the undersigned subcontractor/supplier represents and warrants that (s)he has the authority to bind the undersigned subcontractor/supplier hereto.

The undersigned subcontractor/supplier agrees to indemnify, defend and hold harmless Contractor and Owner, and Owner's officers, employees and agents, against any loss or damage, including reasonable attorney's fees, which Contractor, and/or the Owner of the Project, and Owner's officers, employees and agents, may sustain by reason of the untruth or inaccuracy of any of the foregoing statements and representations, or by reason of the filing of any claim(s), lien(s) or other action(s) by any subcontractors, sub-subcontractors, material suppliers, mechanics, laborers, lessors or other resulting

from, or arising out of, any work done, services provided or materials, goods or equipment supplied pursuant to, or in connection with, the work required by said subcontract/supply contract.

WITNESS the hand and seal of the undersigned this ____ day of _____, 20_____.

(Name of Subcontractor/Supplier Company)

Witness/Attest:

By: _____
(Signature of Person Signing)
Its: _____
(Office of Person Signing)

(AFFIX CORPORATE SEAL IF A CORPORATION)

STATE OF _____) * * * COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, as _____ of _____, whose name is signed to the foregoing instrument and who is known to me, being first duly sworn, acknowledged before me on this day that the statements and representations made therein are true, and being informed of the contents of the foregoing instrument, and being duly authorized to execute same on behalf of said entity (s)he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this ____ day of _____, 20_____.

My Commission Expires: _____

NOTARY PUBLIC

Print Name: _____

[S E A L]

CONTRACTOR'S UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

STATE OF _____
COUNTY OF _____

SUBJECT PROJECT: _____
CONTRACT NO: _____
ADDRESS OF PROJECT:
1 AM/NS Way
Calvert, Alabama 36513

TO: AM/NS Calvert LLC ("Owner")

WORK PERFORMED: _____

Upon the receipt of _____ Dollars (\$_____), the amount due the undersigned Contractor for the **final payment** for labor, materials, goods, equipment, supplies and services furnished by the undersigned for the above-described project (the "Project"), pursuant to that certain contract dated _____, 20____ (the "Contract") with Owner, the undersigned, being first duly sworn, does hereby represent and certify to Owner, as an inducement to Owner to make final payment, and as representations upon which Owner may rely in making said payment, as follows: there are no additional costs or claims for any extras or additions for labor or material with respect to the Contract and Project; all work performed or materials installed or supplied are in accordance with the approved plans and specifications for the Project; all bills, charges and expenses for labor, supervision, materials, supplies, equipment, utilities, overhead, rentals and for all other things furnished or caused to be furnished for the Project by the undersigned have been paid in full; there are no unpaid claims or demands of subcontractors, subsubcontractors, material suppliers, equipment suppliers, mechanics, laborers, lessors or others resulting from or arising out of any work done or materials or equipment supplied pursuant to said Contract by the undersigned or by any other contractor, subcontractor, subsubcontractor, material supplier, equipment supplier, mechanic, laborer, lessor or other person or entity; all federal and state payroll taxes and contributions for unemployment insurance, old age pensions, annuities, retirement benefits and union dues, imposed or assessed under any provision of any law (state or federal) or contract (and measured by wages, salaries or other remunerations paid by the undersigned to its employees or to its subcontractors engaged in said work or in any other operation incidental thereto) have been paid in full; and all payments received by the undersigned for this Project will be used exclusively for the benefit of this Project.

In consideration of the final payment, the undersigned does hereby release Owner, and Owner's officers, employees and agents from all claims of any kind arising under or by virtue of said Contract and work done and/or materials and/or equipment supplied by the undersigned for the Project, and does hereby waive and release all liens or claims of lien and/or payment or performance bond claims of any kind whatsoever for any work done or labor or materials furnished for the Project. The undersigned individual executing this instrument on behalf of the undersigned Contractor represents and warrants that (s)he has the authority to bind the undersigned Contractor hereto.

The undersigned Contractor agrees to indemnify, defend and hold harmless Owner, and Owner's officers, employees and agents, against any loss or damage, including reasonable attorney's fees, which any of them may sustain by reason of the untruth or inaccuracy of any of the foregoing statements and representations, or by reason of the filing of any claim(s), lien(s) or other action(s) by any subcontractors, sub-subcontractors, material suppliers, mechanics, laborers, lessors or others resulting from, or arising out of, any work done, services provided or materials, goods or equipment supplied pursuant to, or in connection with, the work required by said subcontract.

WITNESS the hand and seal of the undersigned this ____ day of _____, 20_____.

(Name of Contractor Company)

Witness/Attest:

By: _____

(Signature of Person Signing)

Its: _____

(Office of Person Signing)

(AFFIX CORPORATE SEAL IF A CORPORATION)

STATE OF _____) * * * COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, as _____ of _____, whose name is signed to the foregoing instrument and who is known to me, being first duly sworn, acknowledged before me on this day that the statements and representations made therein are true, and being informed of the contents of the foregoing instrument, and being duly authorized to execute same on behalf of said entity (s)he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this _____ day of _____, 20____.

My Commission Expires: _____

NOTARY PUBLIC

Print Name: _____

[S E A L]

CONTRACTOR'S AFFIDAVIT

**STATE OF
COUNTY OF**

MUST BE NOTARIZED

The undersigned, first being duly sworn, deposes and says that (s)he is officer/partner (title)_____ of (Firm Name)_____ the Contractor referred to in the FINAL RELEASE AND WAIVER OF CONTRACTOR on the front hereof employed by Owner to furnish the Work for Owner's premises and that the total amount of the Contract is \$_____ of which Contractor has received payment of \$_____; and that the following statement includes the names of all parties who have furnished or who have been contracted with by Contractor to furnish material or labor for the Work and the amounts furnished by, contracted for, paid or due and to become due each; and that the items mentioned include all labor and material required to complete said Work according to plans and specifications:

Names and Addresses	Purpose	Subcontract/ Vendor Price	Amount Paid	Amount Now Due
Total Labor and Material to Complete (If more, list on separate sheet)				

All material (except as above listed) has been paid for in full.

The undersigned further states that there are no other contracts for said Work outstanding; that there are not any claims made or to be made by and that there is nothing due or to become due to any person for material, labor, or other work of any kind done or to be done upon or in connection with said Work other than above stated; that all releases and waivers are true, correct, and genuine and delivered unconditionally; and that there is no claim either legal or equitable to defeat the validity of said releases and waivers.

By: _____ **(Affiant)**
Its: _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____ Notary Public

**UNCONDITIONAL WAIVER AND RELEASE OF SUBCONTRACTOR/SUPPLIER UPON
FINAL PAYMENT**

STATE OF _____ SUBJECT PROJECT: _____
COUNTY OF _____ CONTRACT NO: _____
ADDRESS OF PROJECT:
1 AM/NS Way
TO: Calvert, Alabama 36513

WORK PERFORMED: _____

OWNER: AM/NS Calvert LLC

Upon the receipt of the sum of _____ Dollars(\$ _____), the amount due the undersigned subcontractor/supplier for the **final payment** for labor, materials, goods, equipment, supplies and services furnished by the undersigned for the above-described project (the "Project"), pursuant to subcontract/supply contract dated _____, 20____, with _____ ("Contractor"), the undersigned, being first duly sworn, does hereby represent and certify to Contractor, as an inducement to Contractor to make final payment, and as representations upon which Contractor may rely in making said payment, as follows: there are no additional costs or claims for any extras or additions for labor or material with respect to the above-described subcontract/supply contract and project; all work performed or materials supplied or installed are in accordance with the approved plans and specifications for the Project; all bills, charges and expenses for labor, supervision, materials, supplies, equipment, utilities, overhead, rentals and for all other things furnished or caused to be furnished for the Project by the undersigned have been paid in full; there are no unpaid claims or demands of subcontractors, subsubcontractors, materials suppliers, equipment suppliers, mechanics, laborers, lessors or others resulting from or arising out of any work done or materials or equipment supplied pursuant to said subcontract/supply contract by the undersigned or by any other subcontractor, subsubcontractor, material supplier, equipment supplier, mechanic, laborer, lessor or other person or entity; all federal and state payroll taxes and contributions for unemployment insurance, old age pensions, annuities, retirement benefits and union dues, imposed or assessed under any provision of any law (state or federal) or contract (and measured by wages, salaries or other remunerations paid by the undersigned to its employees or to its subcontractors engaged in said work or in any other operation incidental thereto) have been paid in full; and all payments received by the undersigned for this Project will be used exclusively for the benefit of this Project.

In consideration of the final payment, the undersigned does hereby release Contractor and Owner, and Owner's officers, employees and agents, from all claims of any kind arising under or by virtue of said subcontract/supply contract and work done and/or materials and/or equipment supplied by the undersigned for the Project, and does hereby waive and release all liens and claims of lien and/or payment or performance bond claims of any kind whatsoever for any work done or labor or materials furnished for the Project. The undersigned individual executing this instrument on behalf of the undersigned subcontractor/supplier represents and warrants that (s)he has the authority to bind the undersigned subcontractor/supplier hereto.

The undersigned subcontractor/supplier agrees to indemnify, defend and hold harmless Contractor and Owner, and Owner's officers, employees and agents, against any loss or damage, including reasonable attorney's fees, which the Contractor and/or the Owner of the Project, and Owner's officers, employees and agents, may sustain by reason of the untruth or inaccuracy of any of the foregoing

statements and representations, or by reason of the filing of any claim(s), lien(s), or other action(s) by any subcontractors, sub-subcontractors, material suppliers, mechanics, laborers, lessors or others resulting from, or arising out of, any work done, services provided or materials, goods or equipment supplied pursuant to, or in connection with, the work required by said subcontract/supply contract.

WITNESS the hand and seal of the undersigned this _____ day of _____, 20____.

(Name of Subcontractor/Supplier Company)

Witness/Attest:

By: _____
(Signature of Person Signing)
Its: _____
(Office of Person Signing)

(AFFIX CORPORATE SEAL IF A CORPORATION)

STATE OF _____) * * * COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, as _____ of _____, whose name is signed to the foregoing instrument and who is known to me, being first duly sworn, acknowledged before me on this day that the statements and representations made therein are true, and being informed of the contents of the foregoing instrument, and being duly authorized to execute same on behalf of said entity (s)he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 20____.

My Commission Expires: _____

NOTARY PUBLIC

Print Name: _____

[S E A L]

Exhibit A 5 - FORM OF BONDS

ADVANCE PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____, as Principal, and _____ as Surety, are held and firmly bound unto AM/NS Calvert LLC as Obligee, in the penal sum of _____ Dollars (\$_____) (the "Penal Sum"), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH, That Whereas, the Principal entered into a certain Contract which is incorporated herein, agreed to by Surety and made a part thereof, with the Obligee, dated _____, 20__ for _____ (the "Contract"). Whereby, Obligee has agreed to make an advance payment (the "Advance Payment") to Principal of future sums due to Principal under the Contract in the amount of the Penal Sum in exchange for this Advance Payment Bond (the "Bond") and Principal's promise to perform its obligations under the Contract.

NOW THEREFORE, Surety agrees to reimburse Obligee for the Advance Payment owed to Obligee if Principal fails to perform any of its obligations under the Contract. Such payment shall be made by Surety to Obligee within ten (10) days of Surety's receipt of a written demand from an authorized representative of Obligee. Such demand shall state the amount of the Advance Payment owed to Obligee and shall be accepted by Surety as conclusive proof of amounts owed to Obligee under this bond. Payments due by Surety to Obligee under this Bond shall be made notwithstanding any dispute between Obligee and Principal.

The obligations of the Surety under this Bond shall cease upon the earliest of the following (i) the date the Advance Payment is reduced to zero as certified in writing to the Surety by Obligee; (ii) the date the Advance Payment, or any remaining balance thereof, is repaid to Obligee by the Principal or Surety (such payment must be certified in writing to Surety by the Obligee); or (iii) _____, ___ 20__. [*Insert date when bond will expire*]

It is a condition hereof that any change, alteration, modification or amendment of any nature whatsoever that may be made in the terms of said Contract, any change in the character of scope of the work to be performed, or the method of performance, under said Contract or modification of said Contract or in the time for completion thereof, any change in the manner, time or amount of payment as provided therein, or any change that may be made in the performance of the work under said Contract, may be made without notice to the Surety, and without affecting the obligations of the Surety under this bond and without requiring the consent of the Surety, and no such change or changes shall release the Surety from any of its obligations hereunder, and the Surety hereby consents to and waives notice of any such change, alteration, modification or amendment.

It is further condition hereof that no one other than the named Obligee and the successors, administrators, or assigns of the Obligee shall have any right of action under this bond.

IN WITNESS WHEREOF, the said Principal and Surety have hereunto set their hands and seals, this _____ day of _____, 20__.

CONTRACTOR AS PRINCIPAL
Company (Seal)

Signature: _____
Name and Title:

Witness: _____

SURETY
Company: (Seal)

Signature: _____
Name and Title:
Attach Power of Attorney

Witness: _____

(Any additional signatures appear on page attached) _____

FOR INFORMATION ONLY
AGENT OR BROKER:
(Name, Address and Telephone)

CONTRACT PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____ as _____ Principal, and _____ as Surety, are held and firmly bound into AM/NS Calvert LLC as Obligee, in the penal sum of _____ DOLLARS (\$_____), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH, That Whereas, the Principal entered into a certain contract which is incorporated herein, agreed to by Surety and made a part hereof, with the Obligee dated _____, 20__ for _____(the "Contract").

NOW, THEREFORE, if the said Principal shall pay promptly and in full the claims of all persons, firms or corporations, performing labor or furnishing equipment, materials, or supplies incurred in connection with the work to be performed under said Contract, and shall indemnify and save harmless the Obligee from all loss, liability, costs, damages, penalty, attorney's fees, expenses for all taxes, insurance premiums, and any and all applicable contributions, allowances or other payments thereof by the Obligee necessary to insure orderly prosecution of work or other items or services used in, upon or for or incurred in connection with the work to be performed under said Contract, then this obligation shall be of no effect, but otherwise it shall remain in full force and effect.

It is a condition hereof that any change, alteration, modification or amendment of any nature whatsoever that may be made in the terms of said Contract, any changes in the character or scope of the work to be performed, or the method of performance, under said Contract or modification of said Contract or in the time for completion thereof, any change in the manner, time or amount of payment as provided therein, or any change that may be made in the performance of the work under said Contract, may be made without notice to the Surety, and without affecting the obligations of the Surety under this bond and without requiring the consent of the Surety, and no such change or changes shall release the Surety from any of its obligations hereunder, and the Surety hereby consents to and waives notice of any such change, alteration, modification or amendment.

Subject to the priority of the named Obligee with respect to recovery up to the penal sum of this bond, persons who have supplied or furnished labor, material, machinery, equipment or supplies to the Principal for use in the prosecution of the work provided for in said Contract shall have a direct right to action against said Principal and Surety under this bond.

IN WITNESS WHEREOF, the said Principal and Surety have hereunto set their hands and seals, this ____ day of _____, 20__.

CONTRACTOR AS PRINCIPAL
Company (Seal)

SURETY
Company: (Seal)

Signature: _____
Name and Title:

Signature: _____
Name and Title:
Attach Power of Attorney

Witness: _____

Witness: _____

(Any additional signatures appear on page attached) _____
FOR INFORMATION ONLY
AGENT OR BROKER:
(Name, Address and Telephone)

CONTRACT PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____, as Principal, and _____ as Surety, are held and firmly bound unto AM/NS Calvert LLC as Obligee, in the penal sum of _____ Dollars (\$_____), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH, That Whereas, the Principal entered into a certain Contract which is incorporated herein, agreed to by Surety and made a part thereof, with the Obligee, dated _____, 20__ for _____ (the "Contract").

NOW THEREFORE, if the said Principal shall fully indemnify and save harmless the Obligee from all loss, liability costs, damages, penalty, attorney's fees or expense which Obligee may incur by reason of failure to well and truly keep and perform each, every and all of the terms and conditions of said Contract on the part of the said Principal to be kept performed, including but not limited to, completion within the time specified of all work under the Contract, then this obligation shall be of no effect, but otherwise it shall remain in full force and effect.

It is a condition hereof that any change, alteration, modification or amendment of any nature whatsoever that may be made in the terms of said Contract, any change in the character of scope of the work to be performed, or the method of performance, under said Contract or modification of said Contract or in the time for completion thereof, any change in the manner, time or amount of payment as provided therein, or any change that may be made in the performance of the work under said Contract, may be made without notice to the Surety, and without affecting the obligations of the Surety under this bond and without requiring the consent of the Surety, and no such change or changes shall release the Surety from any of its obligations hereunder, and the Surety hereby consents to and waives notice of any such change, alteration, modification or amendment.

It is further condition hereof that no one other than the named Obligee and the successors, administrators, or assigns of the Obligee shall have any right of action under this bond.

IN WITNESS WHEREOF, the said Principal and Surety have hereunto set their hands and seals, this ____ day of _____, 20__.

CONTRACTOR AS PRINCIPAL

SURETY

Company _____ (Seal)

Company: _____ (Seal)

Signature: _____
Name and Title:

Signature: _____
Name and Title:
Attach Power of Attorney

Witness: _____

Witness: _____

(Any additional signatures appear on page attached)

FOR INFORMATION ONLY

AGENT OR BROKER:

(Name, Address and Telephone)

EXHIBIT B

SUBCONTRACTOR/ SUPPLIER FINAL RELEASE AND WAIVER OF RIGHT TO LIEN

For good and valuable consideration, the receipt of which is hereby acknowledged, _____ (name of Subcontractor or Supplier), located at _____ (Subcontractor's or Supplier's address), hereby knowingly and intentionally releases and forever waives any right, entitlement or claim it may have against AM/NS Calvert LLC. ("Owner") 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 or other claim, including without limitation, mechanic's lien claims, unjust enrichment claims, and any other claim of any kind or nature whatsoever under applicable State law, any other statutory or common law, or any principle of equity, which Subcontractor or Supplier may have or may hereafter acquire, by reason of having furnished, supplied, constructed or performed any work, improvements, labor, equipment or materials as a Subcontractor, Supplier or materialman to _____ (name of Contractor) at or in connection with any facility or property of AM/NS Calvert or its affiliates.

[NAME OF SUBCONTRACTOR OR SUPPLIER]

Authorized Signature: _____

By: _____

Title: _____ 0

Date: _____

SUBSCRIBED AND SWORN TO BEFORE me this ____ day of _____, 20__.

Notary Public
My Commission Expires:

