PLAINTIFF'S EXHIBIT

ASA-1413

ASARCO

PURCHASE ORDER
EL PASO PLANT

UNLESS OTHERWISE SPECIFIED ALL DELIVERIES WILL BE ACCEPTED ONLY BETWEEN 7:00 A.M. - 11:30 A.M. 12:30 P.M. - 3:30 P.M. MONDAY THROUGH FRIDAY
(915) 533-6851

ASARCO INCORPORATED
PO BOX 1111
EL PASO, TEXAS 79999
PHONE (915) 521-3634
FAX (915) 541-1811
EQUAL OPPORTUNITY EMPLOYER

DATE: 12/11/97
ORDER NO.: 77BX05787
RELEASE NO.:
REQUISITION NO.: 286777

TO:
619040-01
GEMCO CONSTRUCTION
415 N MESA, SUITE 110
EL PASO TX 79901

SELLER WILL SHIP TO
ASARCO INCORPORATED
EL PASO PLANT
2301 WEST PAISANO ST
EL PASO, TX 79922

DATE REQUIRED AT DESTINATION: 12/31/97

SHIPPING INTERVAL PROMISED:

SELLER WILL SHIP BEFORE: 12/31/97

POINT OF SHIPMENT: EL PASO

TERMS: NET 30 DAYS

F.O.B. POINT: PLANT SITE

Render separate invoices for each order - show above number and mail in duplicate to

ASARCO INCORPORATED
EL PASO PLANT
P. O. BOX 1111
EL PASO, TX 79999

SHIP VIA: VENDOR'S TRUCK

QUANTITY	UNIT	REFERENCE NUMBER / SPECIFICATIONS	ITEM NO.	UNIT PRICE
1.00	LOT	DIRECT SECURITY BUILDING ROOF REPAIRS REQUESTED BY: C GLASER,JR. ELP 9716324 96135 399 REROOF SECURITY BUILDING PER PROPOSAL DATED 8-19-97.	1	$41,739.00
1.00	LOT	DIRECT ELECTRIC SHOP ROOF REPAIRS REQUESTED BY: C GLASER,JR. ELP 9716325 96135 399 REROOF ELECTRIC SHOP PER PROPOSAL DATED 8-19-97.	2	$17,375.00
1.00	LOT	DIRECT ENGINEERING OFFICE ROOF REPAIRS REQUESTED BY: C GLASER,JR. ELP 9716326 96135 399 REROOF ENGINEERING BUILDING ROOF PER PROPOSAL DATED 8-19-97. PROVIDE SUPERVISION, LABOR, EQUIPMENT AND MATERIAL TO PERFORM THE ABOVE SERVICES COST TO BE BASED ON THE RATES AS SHOWN IN THE CONSTRUCTION CONTRACT FP-10/97	3	$7,255.00

SPECIAL INSTRUCTIONS

1. Show purchase order number on all packages, packing slips, bills invoices and other paper pertaining to this transaction.
2. Packing list must accompany each shipment.
3. Original Bill of Lading must accompany each invoice.
4. All terms and conditions appearing on the reverse side are hereby made a part of this order.
5. ASARCO will not accept any matter containing ASBESTOS, TREMOLITE, ANTHOPHYLLITE, OR ACTINOLITE.
6. If required by law, a MSDS must be provided for all materials on this purchase order. If current MSDS has been provided, indicate reference purchase order number and date of shipment on each packing slip.

PLEASE ENTER OUR ORDER FOR THE ITEMS SPECIFIED ABOVE, SUBJECT TO ALL INSTRUCTIONS AND PROVISIONS ON REVERSE SIDE

DIRECT PAYMENT PERMIT
NO. 3-00020-4251-0

BY_____
AUTHORIZED BUYER

REQUISITIONER

ASARCO

PURCHASE ORDER
EL PASO PLANT

UNLESS OTHERWISE SPECIFIED ALL DELIVERIES WILL BE ACCEPTED ONLY BETWEEN 7:00 A.M. - 11:30 A.M. 12:30 P.M. - 3:30 P.M. MONDAY THROUGH FRIDAY
(915) 533-3851

ASARCO INCORPORATED
PO BOX 1111
EL PASO, TEXAS 79999
PHONE (915) 521-3634
FAX (915) 541-1811
EQUAL OPPORTUNITY EMPLOYER

DATE	12/11/97
ORDER NO.	77EX05787
RELEASE NO.	REQUISITION NO. 266777

TO: 619040-01
GEMCO CONSTRUCTION
415 N MESA, SUITE 110
EL PASO TX 79901

SELLER WILL SHIP TO
ASARCO INCORPORATED
EL PASO PLANT
2301 WEST PAISANO ST
EL PASO, TX 79922

DATE REQUIRED AT DESTINATION: 12/31/97

SHIPPING INTERVAL PROMISED:

SELLER WILL SHIP BEFORE: 12/31/97

POINT OF SHIPMENT: EL PASO

TERMS: NET 30 DAYS

F.O.B. POINT: PLANT SITE

SHIP VIA: VENDOR'S TRUCK

Render separate invoices for each order - show above number and mail in duplicate to

ASARCO INCORPORATED
EL PASO PLANT
P. O. BOX 1111
EL PASO, TX 79999

QUANTITY	UNIT	REFERENCE NUMBER	SPECIFICATIONS	ITEM NO.	UNIT PRICE
			RULES FOR CONTRACTORS ENTERING AND WORKING IN THE PLANT, AND OSHA HAZARD COMMUNICATIONS PROGRAM FOR THE CONTRACTOR ARE ATTACHED OR ARE INCLUDED AS PART OF THE CONTRACT. CONTRACTOR WILL COMPLY WITH ITEM THIRTEEN (13) INSTRUCTIONS AND PROVISIONS OF THE PURCHASE ORDER (SEE REVERSE) FOR WORK PERFORMED ON THE PLANT SITE. INSURANCE CERTIFICATE ON FILE IN ASARCO'S EL PASO COPPER SMELTER PURCHASING DEPT. OFFICE. ********** THIS PURCHASE ORDER IS BEING TRANSMITTED TO YOU BY FACSIMILE MACHINE. THE ORIGINAL COPY OF THE PURCHASE ORDER WILL BE MAILED TO YOU AS CONFIRMATION. ALL TERMS AND CONDITIONS AS SHOWN ON YOUR CONFIRMATION COPY ARE THEREBY MADE A PART HEREOF. ********** ********** ********** NOTE **********		

SPECIAL INSTRUCTIONS

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3. Original Bill of Lading must accompany each invoice.
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DIRECT PAYMENT PERMIT
NO. 3-00020-4251-0

BY_____
AUTHORIZED BUYER

ASARCO

UNLESS OTHERWISE SPECIFIED ALL DELIVERIES WILL BE ACCEPTED ONLY BETWEEN 7:00 A.M. - 11:30 A.M. 12:30 P.M. - 3:30 P.M. MONDAY THROUGH FRIDAY.
(915) 533-8851

PURCHASE ORDER
EL PASO PLANT

ASARCO INCORPORATED
PO BOX 1111
EL PASO, TEXAS 79999
PHONE (915) 521-3634
FAX (915) 541-1811
EQUAL OPPORTUNITY EMPLOYER

DATE	ORDER NO.
12/11/97	77EX05787

RELEASE NO.	REQUISITION NO.
	266777

TO:
619040-01
GEMCO CONSTRUCTION
415 N MESA, SUITE 110
EL PASO TX 79901

SELLER WILL SHIP TO
ASARCO INCORPORATED
EL PASO PLANT
2301 WEST PAISANO ST
EL PASO, TX 79922

DATE REQUIRED AT DESTINATION
12/31/97

SHIPPING INTERVAL PROMISED	SELLER WILL SHIP BEFORE
	12/31/97
POINT OF SHIPMENT	TERMS
EL PASO	NET 30 DAYS
F.O.B. POINT	SHIP VIA
PLANT SITE	VENDOR'S TRUCK

Render separate invoices for each order - show above number and mail in duplicate to

ASARCO INCORPORATED
EL PASO PLANT
P. O. BOX 1111
EL PASO, TX 79999

QUANTITY	UNIT	REFERENCE NUMBER	SPECIFICATIONS	ITEM NO.	UNIT PRICE
			ANY COMMUNICATIONS PERTAINING TO THIS ORDER SHOULD BE DIRECTED TO EL PASO PLANT CONTACT ELIZABETH YZAGUIRRE BY PHONE AT (915) 541-1880 OR BY FAX AT (915) 521-3005.		
			**********		
			** END OF P.O. **		

266777

SPECIAL INSTRUCTIONS

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3. Original Bill of Lading must accompany each invoice.
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PLEASE ENTER OUR ORDER FOR THE ITEMS SPECIFIED ABOVE, SUBJECT TO ALL INSTRUCTIONS AND PROVISIONS ON REVERSE SIDE.

DIRECT PAYMENT PERMIT
NO. 3-00020-4251-0

BY _____
AUTHORIZED BUYER

REQUISITIONER

"FIXED PRICE" CONSTRUCTION OR REPAIRS CONTRACT
(FORM FP-10/97)

CAPITOL ROOF REPAIRS

THIS AGREEMENT is made the 8th day of December, 1997, by and between: GEMCO CONSTRUCTION, INC. whose address is: 415 N. MESA, SUITE 110, EL PASO, TX 79901 (hereinafter called the "Contractor") and ASARCO, INC. whose address is: 2301 WEST PAISANO STREET, EL PASO TEXAS 79922 (hereinafter called the "Owner").

Whenever used in this Agreement, the terms "Owner" and "Contractor" shall include their respective directors, officers, employees, servants, affiliates, subsidiaries, agents, successors and assigns. The term "Contractor" shall also include any and all subcontractors and their officers, employees, servants, affiliates, subsidiaries and/or agents, suppliers and any other parties in privity with the Contractor or under the Contractor's direction or control in connection with the Work.

W I T N E S S E T H :

The Contractor and the Owner, for and in consideration of the mutual covenants set forth herein, agree as follows:

Article 1. Scope of the Work

The Contractor shall furnish all such plans, shop drawings, field engineering, labor, materials, transportation, tools, equipment and other facilities in strict accordance with the requirements and provisions set forth herein and in strict accordance with the specifications, drawings and other requirements listed below and those drawings and specifications which may be supplied by the Owner or prepared by the Contractor at the Owner's direction subsequent to the execution of this Agreement and approved by the Owner. This Agreement, the Appendices hereto and all documents listed below are incorporated herein by reference and made a part hereof and are hereinafter referred to collectively as the "Contract" or the "Contract Documents." All work required to be performed under the Contract and the Contract Documents shall be referenced herein as the "Work" or the "Project."

(Identify and Attach Specifications, Drawings and Other Requirements)

EQUAL OPPORTUNITY STATEMENT

ADDENDUM "A"

"FIXED PRICE" CONSTRUCTION OR REPAIRS CONTRACT
(FORM FP-10/97)

SAFETY & HEALTH ADDENDUM

WASTE CONTAINER LABELING MEMO DATED MARCH 5, 1997

CONTRACTOR OSHA COMPLIANCE LETTER DATED MARCH 5, 1997

ENGLISH LANGUAGE COMPREHENSION LETTER DATED MARCH 27, 1997

Article 2. Time of Completion

The Work to be performed under this Contract shall begin on DECEMBER 15, 1997 and shall be substantially completed as defined in Article 5 by DECEMBER 17, 1997 and fully and finally completed by DECEMBER 31, 1997 , plus any applicable extensions of time granted by the Owner.

Article 3. The Contract Price

The Owner shall pay the Contractor for the performance of this Contract, subject to any additions and deductions herein provided, the sum of SIXTY-SIX THOUSAND THREE-HUNDRED SIXTY-NINE DOLLARS AND 0/100 ($66,369.00), in lawful currency of the United States of America under the conditions hereinafter provided.

Article 4. Schedule of Values and Progress Payments

Within ten (10) days after the effective date of this Contract, the Contractor shall submit to the Owner a preliminary schedule of values for all of the Work which will include quantities and prices of items aggregating the Contract price. The schedule of values shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work. Subject to the Owner's approval, the schedule of values will provide the basis for the Contractor's progress payments.

As soon as practicable after the first day of each calendar month, the Contractor shall present to the Owner an invoice equal to the percentage of the total amount of the Contract which has been completed from the start of the Project up through the end of the preceding month, plus the cost of materials purchased during the preceding month for the Project, together with such supporting evidence as may be required by the Owner. This invoice shall be based upon the schedule of values submitted by the Contractor. Subject to verification and approval of such invoice by the Owner, payment shall be due from the Owner on the thirtieth (30th) day after the Owner's receipt of an invoice from the Contractor. The amount due from the Owner to the Contractor shall be ninety percent (90%) of the total amount due under the Contract for the Work completed, less the total of previous payments. Upon the Owner's final acceptance of all Work required under the Contract, in accordance with Article 6 below, the Owner shall pay the Contractor a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract price.

Contractor a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract price.

Article 5. Substantial Completion

"Substantial Completion" is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with all Contract Documents so the Owner can occupy or utilize the Work for its intended use. When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Owner a comprehensive list of items which remain to be completed or corrected relating to that portion of the completed Work. This list shall be identified by the Contractor as the "Contractor's Draft Punch List." Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract. Upon receipt of the Contractor's Draft Punch List, the Owner will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Contractor's Draft Punch List, which in the Owner's opinion prevents the Work from being substantially complete, the Contractor shall complete or correct such item upon receipt of notification by the Owner. The Contractor shall then submit a written request for another inspection from the Owner to determine Substantial Completion. When the Owner determines that the Work or designated portion thereof is substantially complete, the Owner will prepare and provide to the Contractor a Certificate of Substantial Completion which shall establish the date of Substantial Completion, and shall fix the time (if a change is required in the date originally established for final completion) within which the Contractor shall finish any remaining items of Work itemized by the Owner. This listing of remaining items of Work shall be identified as the "Owner's Final Punch List" and shall be provided to the Contractor along with the Certificate of Substantial Completion.

Article 6. Acceptance and Final Payment

(a) Upon receipt of written notice from the Contractor that the Owner's Final Punch List is complete and the Work is ready for final inspection and acceptance, the Owner shall promptly make such inspection. If and when the Owner finds the Work fully performed and acceptable under the Contract, the Owner shall promptly issue a Certificate of Final Completion. After all appropriate adjustments have been made to the Contract price, the entire remaining balance shall be paid to the Contractor by the Owner within thirty (30) days after the date of issuance of said Certificate of Final Completion.

(b) Before issuance of the Certificate of Final Completion, the Contractor shall submit evidence satisfactory to the Owner that all payrolls, material bills, and other indebtedness connected with the Work have been paid, and that the Work is free of all liens and encumbrances. The Contractor shall provide the Owner with releases of claims and liens for all of its subcontractors. In the case of disputed indebtedness or liens, the Contractor must submit a surety bond satisfactory to the Owner guaranteeing payment of all such disputed amounts when adjudicated.

Article 8. Insurance Certificate

The Contractor shall deliver to the Owner, along with the signed Contract and prior to any equipment or personnel being brought onto the Owner's premises a Certificate of Insurance evidencing the insurance coverages described in Article 37 of this Contract.

Article 9. Compliance with Laws and Ordinances

This Contract shall be performed and all equipment, goods, services or work furnished hereunder shall be produced, sold or delivered in strict compliance with all federal, state and local laws, rules, regulations, standards and other governmental requirements in effect as of the date hereof including, but not limited to, the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651 et seq. (the "Occupational Safety and Health Act"), the Mine Safety and Health Act of 1977, 30 U.S.C. §§ 801 et seq. (the "Mine Safety and Health Act"), the statutes enforced by the United States Environmental Protection Agency ("U.S. EPA") and all applicable regulations and standards. The Contractor will furnish to the Owner certificates of such compliance in a form acceptable to the Owner. If the Contractor performs any Work or delivers any services or goods contrary to any laws, ordinances, rules or regulations, the Contractor shall bear all costs and expenses of any kind arising therefrom. The inclusion in this Contract of any specific requirements or agreements to comply with specific laws, regulations or ordinances does not and is not intended to relieve the Contractor of its obligation to comply with all laws, rules, statutes, regulations and ordinances.

Article 10. Employment and Related Laws

To the extent the goods and services to be provided hereunder are being utilized by the Owner to fulfill obligations pursuant to a contract with the federal government or any agency thereof or to the extent otherwise applicable as a matter of law to the contracting and/or subcontracting of services or Work hereunder, the following provisions are incorporated by reference and the Contractor represents that it will comply with them: The Equal Employment Opportunity Act, E.O. 11246 and 41 CFR Secs. 60-1.4 and 60-1.7; the Employment of Veterans Act, 41 CFR Sec. 60-250; and the Employment of Handicapped Act, 41 CFR Sec. 741-4, Drug Free Workplace Act of 1988 (Pub.L. 100-690); Walsh-Healey Public Contracts Act, 41 U.S.C. § 35-45; Service Contract Act of 1965, as amended, 41 U.S.C. 351, et seq.; Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., such other laws or regulations as the federal government may require the Owner to flow down to its contractors; and all rules and regulations issued pursuant to the foregoing.

Article 11. Intent of Contract Documents

The intention of this Contract is to include all labor and materials, equipment, supplies, services and transportation necessary for the proper execution and completion of the Work. All services, materials, equipment, activities or Work that are not specifically identified in Article 1, shown on the drawings, stated in the specifications or other Contract Documents, or listed herein, but that are reasonably necessary for the proper completion of all Work on the Project in accordance with the highest industry standards, shall be provided by the Contractor the same as if specifically identified in Article 1, shown on the drawings, stated in the specifications or other Contract Documents, or listed herein. Contract terms which have a well-known technical or trade meaning shall be interpreted accordingly. In the event of any inconsistency, conflict or ambiguity between or among the Contract Documents, such conflict shall be resolved by referring to the Contract Documents in the following order of precedence: (1) the most recent change orders and written amendments to this Contract signed by the Owner and Contractor; (2) the terms and conditions of this Contract.

Article 12. Drawings and Specifications

The Owner agrees to furnish, without charge to the Contractor, one (1) set of reproducible specifications and prints of all drawings listed in the specifications. Where revised or additional drawings and specifications are prepared as hereinafter provided, the Owner will furnish one (1) set of such revised or additional drawings and specifications to the Contractor.

The Owner agrees to furnish supplemental drawings as may be required to clarify the Contract drawings. Supplemental drawings shall neither enlarge nor decrease the scope of the Work. Where alterations in the Contract drawings and specifications affect the extent of the Work, the changes shall be governed as provided in Article 27 of this Agreement.

The Contractor agrees to furnish to the Owner for approval three (3) sets of prints of the following drawings before proceeding with the Work covered therein:

A. All of the Contractor's drawings which are required or produced for this Project.
B. Any shop drawings, detail sheets or erection diagrams required for any phase of the Work.
C. Certified dimension sheets, wiring diagrams and performance curves covering any equipment purchased by the Contractor for the Project.

The Contractor shall make any corrections required by the Owner in drawings submitted for the Owner's approval. The Owner's approval as to the design of such drawings shall not relieve the Contractor of responsibility for errors or discrepancies of any sort.

The Contractor also agrees to furnish to the Owner five (5) sets of operation and installation instructions and parts lists for all equipment furnished by the Contractor, not later than the date the equipment is shipped, including two (2) certified copies of dimension sheets, wiring diagrams and performance curves of same.

ASARCO ELP 0011107

As soon as the drawings referred to in subparagraphs A and B above are completed, checked and approved by the Owner, the Contractor shall furnish three (3) complete final sets of prints to the Owner.

Upon completion of the Project and as a condition for final payment, the Contractor shall provide the Owner with three (3) sets of record drawings showing all as-built conditions on the Project.

Article 13. Order of Completion and Schedules

The Contractor shall complete any portion or portions of the Work in such order of precedence as the Owner shall require, and the time for completion of the various stages or divisions of the Work will be determined by the schedules issued by the Contractor to the Owner and mutually agreed upon by the Owner and the Contractor. Within ten (10) days after the effective date of this Contract, the Contractor shall submit to the Owner a preliminary progress and schedule indicating start and completion dates for the various stages or divisions of the Work. The Contractor shall be responsible for maintaining and providing the Owner with written schedule updates on at least a monthly basis or as otherwise requested by the Owner. The schedules and updates shall be prepared by the Contractor in a form acceptable to the Owner.

Article 14. Contractor's Understanding

To the extent reasonably practicable or consistent with trade or industry practice, the Contractor shall satisfy itself as to the nature, physical condition and location of the Work, including but not limited to all subsurface conditions, the character of equipment and facilities needed prior to and during the execution or performance of the Work, the general and local conditions, and all other matters which can in any way affect the Work under this Contract. The Owner's subsurface investigations (if provided) are made for design purposes only. The Owner does not warrant that the conditions indicated by these investigations are representative of those throughout the Work area, or in any part of it. Where reasonably practicable or consistent with trade or industry practice, the Contractor is responsible to make its own subsurface investigation to determine the impact of the subsurface conditions on its Work. Information supplied by the Owner regarding subsurface conditions is provided to supplement the Contractor's own subsurface investigation, and such information is not to be relied upon by the Contractor. The Contractor's right to recovery or relief for any condition, whether or not anticipated, obvious or latent, shall be governed by Article 44 of this Contract and shall be limited solely to an extension of the Contract performance period.

Article 15. Utilities and Temporary Facilities

The Owner will not supply electricity, water, light, power, steam, compressed air or other utilities required for construction purposes unless specifically so provided in the Contract.

Where such items are not supplied by the Owner, they shall be furnished by the Contractor, and the Contractor shall, in either case, be required to make the necessary connections, provide approved shut-off and safety devices and furnish and install all temporary lines required to bring them to the point of use. The Contractor shall construct and maintain all necessary temporary facilities for the completion of the Work. The Contractor shall provide and maintain adequate sanitary facilities at the Project site. Upon completion of the Work, all such facilities shall, unless the Owner shall otherwise direct, be removed from the premises and the site cleared.

Article 16. Status and Responsibility of the Contractor and its Personnel

It is understood and agreed that the status of the Contractor and its subcontractors hereunder is that of an independent contractor, that their personnel performing services or Work hereunder shall under no circumstances be deemed to be employees of the Owner, and that any Worker's Compensation Insurance coverage and Occupational Safety and Health Administration ("OSHA") or Mine Safety and Health Administration ("MSHA") training required for such personnel will be the sole responsibility of the Contractor. Notwithstanding the aforesaid understanding, the general instructions of the Owner in connection with accomplishing the Work to be done hereunder shall be followed by the personnel of the Contractor.

The Contractor shall at all times enforce strict discipline and good order among its employees, and shall seek to avoid employing on the Work any unfit person or anyone not skilled in the Work assigned to him.

During the term of the Contract, it shall be the Owner's prerogative to require changes in the personnel of the Contractor's employees assigned to the Work when in the opinion of the Owner, their work is not conducive to the required scope of Work.

If for any reason the Contractor's employees or any of its subcontractor's employees or agents acquire a status imposing liability on the Owner for employers' contributions or taxes under the Federal Insurance Contribution Act, the Federal Unemployment Tax Act, any State Unemployment Tax or Wage Protection Act, any savings, profit sharing, pension, equity participation, or other benefit plans or for the violation of any federal, state or local act, statute or regulation, then the Contractor shall be solely and exclusively liable for, and shall indemnify, defend and hold harmless the Owner against the same so as to relieve the Owner from any and all liability, loss or damage therefor and from the responsibility for making reports or keeping records with respect thereto.

Article 17. Environmental Safety and Health Policy & Training

By accepting this Contract and beginning performance hereunder, the Contractor acknowledges that providing a safe and healthy workplace and protecting the environment is the Owner's first priority. The Contractor further agrees that any of its officers, agents, employees or subcontractors that enter the Owner's premises will be trained by the Contractor in the following areas: (a) applicable safety and health protection procedures, laws and regulations of federal, state and local governmental agencies, including but not limited to, OSHA and MSHA and/or

their state or local equivalents; (b) applicable environmental protection laws, procedures and regulations enforced by federal, state and local governmental agencies including, but not limited to, the U.S. EPA and/or their state or local equivalents; and (c) the Owner's site policies, rules and procedures.

Article 18. General Safety and Health Provisions

a. The Contractor agrees to fully comply with all Owner control procedures relating to facility access, including but not limited to, employee identification and information requirements, sign in/out and Work initiation/termination notification procedures. The Contractor agrees to comply with all Owner requirements applicable to the Contractor employee presence on site, including but not limited to, the use of respirators and personal protection equipment (e.g., hard hats, seat belts, gloves, safety glasses and coveralls) and the general safety and health provisions set forth below. The Contractor and its subcontractors and employees will complete and provide to the Owner the forms contained within Owner's Contractor Policy, and any other requested forms relating to safety, health and environmental protection.

b. The Contractor shall designate a job site representative to be its safety supervisor and that person shall be responsible for promoting safety, health, and accident prevention, interest in compliance with applicable laws, rules and regulations among its employees, and coordinating such activities with the Owner and any subcontractors and suppliers of the Contractor.

c. The Contractor shall convey in writing and orally to its employees that they must notify the Contractor and the Owner immediately of any safety or health concerns, newly discovered hazards or problems they may have at the Project, regardless of whether such concerns or problems relate to any job site policy, law, rule, regulation or any physical condition or process involving the Project premises or any circumstances, or any actions or inactions of the Owner or the Contractor. Upon receipt of such notice from an employee, or as follow-up to any oral or written notice issued by the Owner to the Contractor's site personnel, the Contractor must notify the Owner in writing within twenty-four (24) hours, of the stated concern, hazard or problem and what corrective and/or protective action has been taken and/or remains to be taken to evaluate the problem, mitigate the problem, prevent its recurrence, and effectively communicate with affected employees.

d. The Contractor acknowledges and agrees that it has been provided with and reviewed the Owner's Contractor Policy, safety and health rules and training materials and agrees to institute and follow such rules and apply them to the Work performed under this Contract.

e. The Contractor shall take all reasonable precautions to ensure the safety and health of all persons working at the Project and all persons who may in any way be affected by the Work, including but not limited to:

1. The Contractor agrees to limit its travel on the Owner's premises and facilities solely to that necessary for performing the contracted Work or services, and to be

accompanied by the Owner's personnel, unless authorized in writing to be unaccompanied following initial Work site arrival.

2. The Contractor agrees to comply with the Owner's substance abuse policies.

3. The Contractor agrees to become familiar with and train its employees in the physical characteristics of the worksite, including, but not limited to, any hazards, restricted areas, protective measures and applicable emergency and evacuation procedures.

4. The Contractor agrees to provide safe, functional equipment and materials and any training, testing or certifications that are necessary, appropriate or required to utilize such materials and equipment, including all equipment and tools needed to perform the job, and to provide approved personal protective equipment and clothing and respirators appropriate for the type of Work and Work location. The Contractor also agrees to maintain such equipment, materials and tools in good working condition.

5. The Contractor agrees to be subject, at any time, to the Owner's Contract compliance monitoring, including inspections, testing, and the Owner's acceptance or rejection of Contractor-provided equipment, materials and tools employed or used to complete the Work.

6. The Contractor agrees to obtain the Owner's written approval of its subcontractors and their employees before utilization on the Owner's premises. The Contractor must ensure that subcontractors meet the same safety and health requirements and provide the same information to the Contractor as the Owner requires of the Contractor. The Contractor in turn must provide copies of all such information to the Owner.

f. The Contractor shall take all reasonable precautions to assure that it discovers, is made aware of and corrects any unsafe or unhealthy conditions, circumstances, actions or inactions that arise at the Project and that directly or indirectly affect any of the Contractor's personnel or the personnel of any other contractor or the Owner at the site.

g. The Contractor shall promptly advise the Owner of any investigation or inspection of the Project site or the Contractor's workplace by any federal, state or local governmental agency and shall permit the Owner to participate fully in such inspections, and shall provide copies of inspection reports and notices of violations, and advise the Owner in writing of the progress and outcome of any such inspection or investigation or related litigation.

h. The Contractor shall immediately notify the Owner (and if requested provide a detailed written report) of every accident involving injury to personnel or occupational illnesses or damages to the Owner's property occurring in connection with the Work or on the Owner's facility, and agrees to assist the Owner with any accident investigation in which the Contractor

has any involvement by providing access to and preserving the Work area and by producing any and all related documents and records and any employees who have knowledge of, were involved in, or may have witnessed the accident for interviews. The Contractor also agrees to record and report all required information to all appropriate federal, state and local regulatory agencies and to provide copies of such reports and information to the Owner. The Contractor shall also report to the Owner employee days and hours worked while on company premises.

i. The Contractor acknowledges and agrees that any safety or health advice or training, inspections, safety or health equipment, health or biological monitoring or other safety or health services that may be provided or performed by the Owner for itself or the Contractor, its subcontractors or their employees is strictly voluntary and is provided solely to enhance safety and health in the workplace. Any such actions by the Owner shall not be alleged to change or diminish or relieve the Contractor or its subcontractors of contractual, legal or governmental responsibilities in these areas and shall not constitute, nor be alleged in any inspection, investigation or legal proceeding to constitute control, supervision or direction by the Owner of the Contractor's or its subcontractor's employees.

j. The Contractor agrees to provide the Owner with its written safety program and certify that all required training has been completed in a timely manner pursuant to the applicable federal and state laws and regulations, and provide such completed forms as requested by the Owner to demonstrate compliance with this provision.

k. The Contractor agrees to use and employ a safety and health program at least as comprehensive as that included in Owner's Contractor Policy and to conform to all requirements and information requests set forth in said policy. If additional precautionary requirements are agreed to, they are set forth in Appendix A hereto and the Contractor agrees to comply with them.

Article 19. General Environmental Provisions

a. The Contractor is responsible for proper management, storage, removal and disposal of all supplies and materials utilized in the Work and waste materials generated in the course of performance of the Contract pursuant to the Owner's rules, and all applicable laws, ordinances, rules, regulations, standards and/or other governmental requirements related thereto, including but not limited to, those of OSHA, MSHA, the U.S. EPA, the Department of Transportation and all federal, state, municipal and local governmental agencies, and the applicable fire codes, including but not limited to, appropriate containers, labels, warnings and placards, and secondary containment for materials containing hazardous substances or petroleum.

b. The Contractor may store supplies, materials and wastes only in areas designated by the Owner. The Contractor may not store any wastes on the Owner's property in excess of ninety (90) days. If the Contractor utilizes any materials designated by federal, state or local law as a hazardous substance or hazardous waste, such materials must be stored in appropriate containers and spill control equipment must be available in the storage areas.

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c. In the event of a fire or a spill or release of hazardous materials or wastes on the Owner's property, the Contractor will take actions necessary to prevent harm to the environment and human health, and immediately notify the Owner in accordance with the notice provision contained in Article 52, as well as the appropriate governmental authorities.

d. The Contractor is responsible for all costs associated with removal and off-site disposal of all hazardous and non-hazardous wastes. The Contractor must inform the Owner in accordance with the notice provision contained in Article 52 at least ten (10) days before any waste material is transported off-site for recycling or disposal.

e. In the event that the Contractor leaves any materials, supplies or wastes on the Owner's property (except those placed in a designated on-site land disposal unit with the Owner's written permission) after completion of the Work, said materials, supplies or wastes will be disposed of by the Owner at the Contractor's expense.

f. Prior to commencement of the Work, the Contractor will provide the Owner with a Material Safety Data Sheet for all materials and supplies to be utilized on the Owner's property in the course of performance of the Contract. At the Owner's discretion, the Owner may require that the Contractor utilize a substitute product that is less hazardous.

g. The Contractor is responsible for making all such Material Safety Data Sheets available to its own employees and those of its subcontractors pursuant to the Occupational Safety and Health Act.

h. Unless the Owner provides prior written approval to the Contractor, the Contractor may not bring any materials onto the Owner's property nor utilize any products that contain the following substances: asbestos, chlorofluorocarbons (CFCs), chlorinated solvents, or polychlorinated biphenyls (PCBs).

Article 20. Assessment For Contractor Violations And Audit Of Contractor Compliance

The Contractor recognizes and acknowledges that violations by the Contractor of health, safety, environmental and other statutory and regulatory authority may result in civil and/or criminal fines and penalties or in other damages and losses to both the Owner and the Contractor. The Contractor agrees that the Owner shall have the right to assess or backcharge the Contractor in an amount equal to that which OSHA, MSHA or U.S. EPA is authorized to assess for health and safety or environmental violations where the Owner reasonably determines that the Contractor, its agents, subcontractors or employees have committed such a violation. The Owner also shall have the right to inspect or audit the Contractor's records, conduct or actions during the performance of this Contract for the purpose of monitoring the Contractor's compliance with and enforcement of the terms of Articles 17 through 20. The Owner's remedies against the Contractor for violation of the terms of this Article shall not be limited to those set forth herein.

Article 21. Patents and Other Intellectual Property Rights

The Contractor shall indemnify, defend and hold harmless the Owner against and from any and all claims, losses, costs, damages, expenses, actions or other proceedings growing out of or resulting from the alleged infringement or infringement of any patent or other intellectual property rights by the Contractor in the performance of this Contract. This provision shall not apply to patented articles or processes specified in drawings or specifications furnished by the Owner provided any such claim is not attributable to the Contractor's negligence in the use of such patented articles or processes.

Article 22. Surveys, Permits and Regulations

If involved in the subject matter of this Contract, the base lines and mean datum will be established by the Owner; the control lines and levels and all general layout Work will be the responsibility of the Contractor. All controls established by the Contractor shall be preserved and maintained throughout the life of the Contract.

Unless otherwise specified, the Owner shall furnish all land surveys required. Permits and licenses of a temporary nature necessary for the prosecution of the Work shall be secured and paid for by the Contractor. Permits, licenses and easements for any permanent structures or any permanent changes in existing facilities shall be secured and paid for by the Owner, unless otherwise specified.

The Contractor shall provide all notices required by law which bear on the conduct of the Work as drawn and specified. If the Contractor observes that drawings and specifications are at variance therewith, the Contractor shall promptly notify the Owner in writing. If the Contractor performs any Work knowing it to be contrary to any such law, rule or regulation, and without such notice to the Owner, the Contractor shall bear all costs arising therefrom.

Article 23. Protection of the Public, the Work and Property

The Contractor shall provide and maintain all necessary watchmen, barricades, red lights and warning signs and take all necessary precautions for the protection and safety of employees on the Project, of all other persons and of adjacent private and public property. The Contractor at all times shall maintain adequate protection of the Work from loss and damage and shall protect the Owner's property and all persons thereon from injury, damage or loss by reason of any act or omission of the Contractor or any subcontractor.

In an emergency affecting safety, life or the Work or of adjoining property, the Contractor is, without special instructions or authorization from the Owner, hereby authorized to act at the Contractor's discretion to prevent such threatened loss or injury. The Contractor shall also so act if instructed by the Owner.

Any compensation claimed by the Contractor on account of an emergency of this nature shall be determined by mutual agreement and failing which, shall be resolved pursuant to Article 45.

Article 24. Inspection of Work

The Owner and its representatives shall at all times have access to the Work, and the Contractor shall provide safe and proper facilities for such access and for inspection. However, the mere fact that the Contractor's facilities or Work have been inspected is not to be interpreted as a determination by the Owner that the Contractor's Work is acceptable or that Contract requirements have been waived.

If the specifications, the Owner's instructions, laws, ordinances or any public authority require any item of material, equipment or Work to be specially tested or approved, the Contractor shall give the Owner timely notice in writing of its readiness for inspection. If the inspection is by an authority other than the Owner, the Contractor shall give the Owner notice of the date fixed for such inspection. The Owner shall conduct all inspections promptly. Where practicable, such inspections shall occur at the source of supply.

If any Work should be covered up by the Contractor before examination by the Owner without approval or consent of the Owner, it must, if required by the Owner, be uncovered for examination and properly covered again at the Contractor's expense. Even though the Owner has examined a particular item of Work, the Owner may order re-examination of such Work, and if so ordered, the Work must be uncovered by the Contractor. If such Work is found to be in accordance with the Contract, the Owner shall pay the cost of re-examination and replacement. If such Work is not in accordance with the Contract, the Contractor shall pay such cost.

Article 25. Contractor's Covenants/Supervision and Superintendence

The Contractor shall maintain a competent staff at all times to supervise and perform the Work. The Contractor shall maintain on the Project during its progress, a competent superintendent and any necessary assistants, all satisfactory to the Owner. Directions for contract compliance by the Owner may be given to the superintendent and shall be binding on the Contractor. Directions for contract compliance shall be confirmed in writing upon the written request of the Contractor. The Owner maintains the right to direct the Contractor to increase or modify the method or manner of supervision or superintendence on the Project if it deems necessary for contract compliance.

The Contractor shall use its best judgment and skill in dealing with labor matters, and take all reasonable steps to avoid labor disputes. In the event of any strike or threat of strike, slowdown, featherbedding or other like practices, the Contractor shall apprise the Owner of all relevant facts and implications of the particular labor problem involved, and shall consult in good faith with the Owner in an effort to reach a mutually satisfactory solution to such labor problem and, so far as reasonably possible, to protect the Owner against delays affecting the Work or damage or losses to its other operators.

Article 26. Qualification and Performance of the Contractor's Employees

The Contractor shall at all times supply a sufficient number of skilled workmen to diligently pursue the Work. Where required by applicable statutes, codes, rules, regulations and ordinances, all workmen engaged in such Work shall present evidence by certificate or otherwise that they are qualified to do the Work in conformity with such statutes, codes, rules, regulations and ordinances.

Article 27. Changes in the Work

The Owner, without invalidating this Contract, may at any time order extra Work or initiate changes in the Work by altering, adding to or deducting from the Work. If such extra Work or change involves a change in cost or in the time required for completion, the Contract price and Contract performance period shall be increased or decreased in accordance with the terms hereof and the instructions contained in Appendix B to this Contract. The Owner will initiate the change process by issuing to the Contractor the form in Appendix B entitled "Change Order Directive Form" ("CODF"). The Owner shall describe or itemize in the CODF the changes to be made by the Contractor. Upon receipt of the CODF, the Contractor shall complete and submit promptly to the Owner, the "Contractor Change Order Proposal Form" included in Appendix B and include therein an itemized statement of the extension or reduction in the time for completion of this Contract which the Contractor deems reasonable, and the Contractor's calculation of the adjustment in the Contract price resulting from the changes or extra Work. The Contractor's calculation of its proposed adjustment to the Contract price shall be completed in accordance with the form in Appendix B entitled "Instructions For Preparing Change Order Proposal." The Owner and the Contractor both must execute the completed CODF to memorialize a change order. The CODF must be fully executed by the Owner and the Contractor before Work on the changes is begun unless the Owner issues a written order to the Contractor to proceed immediately with the Work identified in the CODF. Where the circumstances require it, the Owner shall have the right to direct the Contractor to use a pricing methodology other than that set forth herein.

In the event the parties cannot agree upon the increase or decrease in the time for completion or in the amount of the Contract price adjustment under this Article 27, then the Contractor shall nevertheless proceed with the Work, including any extra Work or changes, and the dispute shall be settled in accordance with Article 45 hereof. Any dispute as to the amount of a change shall be resolved in accordance with the formula contained in the form attached hereto entitled "Instructions For Preparing Change Order Proposal."

No extra Work shall be performed or change shall be made except by written order of the Owner, and no claim for an increase in the Contract price or an increase in the time for completion shall be valid unless the extra Work or change was ordered in writing.

The Contractor may initiate the change order process under this Article 27 by requesting that the Owner issue a Change Order Directive Form. However, unless the Owner issues a Change Order Directive Form to the Contractor, this Article 27 shall not apply to and shall not provide the basis for a Contractor-initiated change, constructive change or equitable adjustment request, or claims of any nature, including but not limited to claims for changed conditions,

differing site conditions, defective specifications, delay, disruptions, or loss of productivity and efficiency.

Article 28. Warranty and Quality

The Contractor warrants that all goods, materials and services shall: conform to the specifications, drawings, samples or other description agreed to by the Contractor and the Owner; meet the highest industry standards for merchantability and workmanship; be free from all defects; and comply with all applicable laws and regulations. All goods and materials incorporated into the permanent Work shall be new. Such warranties shall survive the Owner's inspections, tests and acceptance for a period of twelve (12) months from the date the Owner issues a Certificate of Final Completion covering the Work. The Contractor's obligations and the Owner's rights hereunder shall remain in full force and effect beyond the twelve (12) month period to cover any defects that are latent or could not have been discovered through reasonable use of the goods or the services provided. If any goods or services performed are defective or otherwise not in conformity with the requirements of this Contract, the Owner, in addition to its other rights including the right to recover direct, consequential or incidental damages, attorney's fees and costs, may reject the same for full credit or require proper correction, replacement or completion thereof at the Contractor's expense. All rejected goods may either be returned to the Contractor at the Contractor's expense, or may be held by the Owner for disposition at the Contractor's risk and expense. The Contractor shall at all reasonable times permit inspection and testing by the Owner of all items, work in process, materials and workmanship covered by this Contract. The Contractor's warranty obligations shall survive termination.

Article 29. Deduction for Uncorrected Work

If the Owner deems it inexpedient to correct Work that has been damaged through the fault or neglect of the Contractor, or that was not done in accordance with the Contract, an amount to compensate the Owner fully for such damage or non-compliance shall be deducted from the Contract price. If the parties cannot agree on the amount of such deduction, it shall be determined in accordance with Article 45 hereof.

Article 30. Correction of Work Before Final Payment

The Contractor shall, within ten (10) days of receipt of written notice, remove from the premises all materials whether incorporated in the Work or not, and take down all portions of the Work, where the Owner has advised the Contractor that such materials or Work fail to meet Contract requirements. The Contractor shall within ten (10) days replace and re-execute the Contractor's own Work in accordance with this Contract and without expense to the Owner and shall bear the expense of making good all Work of other contractors destroyed or damaged by such removal or replacement.

If the Contractor does not remove such Work and materials within ten (10) days after service of written notice, the Owner may remove them and may store the materials at the expense of the Contractor. If the Contractor does not pay the expense of such removal and storage within ten

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(10) days thereafter, the Owner may, upon ten (10) days' written notice, sell such materials at auction or at private sale and shall pay to the Contractor the net proceeds thereof, after deducting all the cost and expense that should have been borne by the Contractor. Should such cost and expense exceed the auction or sale price, the Contractor shall pay such difference promptly to the Owner upon the presentation of a substantiating invoice by the Owner. The Contractor waives all rights to claim damages or any other remuneration, except as required by law, for sale of materials at auction or private sale. Any dispute under this Article shall be determined in accordance with Article 45 hereof.

Article 31. Inspection and Correction of Work After Final Payment

Neither inspection by the Owner or its representative, nor the Owner's Certificate of Final Completion or final payment, nor any provision in this Contract shall relieve the Contractor of liability for providing faulty materials or workmanship.

Article 32. Owner's Right to Terminate Contract for Cause

Any of the following reasons shall provide the Owner with a basis for terminating the Contractor's Contract for cause: (1) any proceeding is instituted by or against the Contractor seeking to adjudicate it as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or seeking the entry of an order of relief or the appointment of a receiver, trustee or other similar official for it or any substantial part of its property; or (2) the Contractor admits its inability or fails to pay its debts generally, or shall make a general assignment for the benefit of its creditors; or (3) the Contractor at any time fails, refuses or neglects to supply enough properly skilled workmen or proper materials; or (4) the Contractor fails to make prompt payments to subcontractors or for material or labor; or (5) the Contractor disregards laws, ordinances or the instructions of the Owner; or (6) the Contractor violates any provision of this Contract; or (7) the Owner reasonably determines that the Contractor has not timely or satisfactorily performed its Contract Work. If the Contractor shall fail to remedy any such default or deficiency to the satisfaction of the Owner within ten (10) days after the Owner's issuance of written notice to the Contractor, then the Owner may, without prejudice to any other right or remedy it may have under this Contract or as a matter of law, terminate the employment of the Contractor for the Contractor's default and take possession of the premises and of all material, tools and appliances thereon and finish the Work by whatever method the Owner deems appropriate and expedient.

If the unpaid balance due on the Contract for Work performed to the date of termination of the Contractor exceeds all loss or damages of the Owner caused in whole or in part by the Contractor's default, including but not limited to, any financial losses or expenses incurred or suffered by the Owner as a result of a delay in completion of the Work and the expense of finishing the Work and compensation to the Owner for the Owner's managerial and administrative services, and attorneys' fees and expenses, then such excess shall be paid to the Contractor within a reasonable time after final completion of the Project. If such loss or damages to the Owner shall exceed such unpaid balance, the Contractor shall not be entitled to payment of

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the unpaid balance and shall further pay to the Owner all damages incurred by the Owner which were caused in whole or in part by the Contractor. Following termination, the Owner may complete the Contract Work and reprocure the necessary services for completing the Work, and the Contractor shall be liable for any additional damages or costs incurred by the Owner.

Article 33. Owner's Right to Terminate Contract for Convenience (Without Cause)

The Owner may, at any time, terminate the Contractor's services under the Contract for any reason whatsoever or for its convenience by giving the Contractor not less than fifteen (15) days' written notice of termination setting forth the effective date of termination. In the event of such termination, the Owner shall pay to the Contractor the balance due on the Contract price for Work actually performed, accepted and approved by the Owner prior to the effective date of such termination, less payment previously made by the Owner on account thereof and less any damages or loss the Owner may have incurred as a result of the Contractor's performance or conduct. The Owner shall have the right to audit and review all amounts claimed by the Contractor pursuant to this Article. The Contractor shall not be entitled to demand any damages, consequential or otherwise, compensation or indemnity of any kind as a consequence of such termination.

Article 34. Removal of Equipment

In the case of termination of this Contract before completion for any cause whatsoever, the Contractor shall promptly remove any part or all of the Contractor's equipment and supplies from the property of the Owner, failing which the Owner shall have the right to remove such equipment and supplies at the expense and at the risk of the Contractor, without liability of the Owner for any damage to, or loss of the same.

Article 35. Use of Completed Portions

The Owner shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding the time for completing the entire Work or such portions may not have expired; but such taking possession and use shall not be deemed an acceptance or approval of any Work not completed in accordance with this Contract.

Article 36. Payments Withheld

The Owner may withhold all or part of any progress or final payment to the extent necessary to protect the Owner from loss or damage on account of:

a) Damaged or defective Work not remedied;

b) Claims filed or reasonable evidence indicating probable filing of claims by other parties against the Contractor or the Owner;

c) Failure of the Contractor to make payments properly to subcontractors or for material or labor;

d) A reasonable doubt that this Contract can be completed for the balance then unpaid or within the time specified;

e) Damage to the Owner's property or the work of another contractor;

f) Failure of the Contractor to make satisfactory progress or to meet the established schedule or milestones;

g) The Contractor's violation of any applicable laws, ordinances, rules, regulations, instructions and/or other general regiments; and

h) Any other penalty, fine, damage or cost incurred or sustained by the Owner or that may be incurred or sustained.

Article 37. Contractor's Insurance

The Contractor shall, for the mutual protection and benefit of both the Owner and the Contractor, procure, pay for and maintain in full force and effect, at all times during the performance of the Work through the Owner's issuance of a Certificate of Final Acceptance of the Work, and for completed operations, policies of insurance issued by a responsible carrier or carriers acceptable to the Owner which afford the following coverages:

a. Workers' Compensation	- Statutory.
b. Employer's Liability	- Not less than $500,000.
c. Comprehensive General Liability including Independent Contractors' Broad Form Contractual, Broad Form Property Damage, Personal Injury, Completed Operations and Products coverages (such Completed Operations and Products coverages shall be provided for a period of two (2) years after final completion of the Work and final acceptance by the Owner), and deletion of any exclusion pertaining to explosion, collapse, underground property damage, radiation and pollution hazards.	- Not less than $2,000,000 combined single limit for both bodily injury and property damage.
d. Comprehensive Automobile Liability including Owned, Non-Owned, and	- Not less than $2,000,000 combined single limit for both bodily injury

Hired Car coverages. and property damage.

All policies, with the exception of Workers' Compensation, shall name the Owner, its subsidiaries, directors, officers, agents and employees as additional insureds, and shall expressly provide that the interest of same therein shall not be affected by any breach by the Contractor of any policy provision. All policies shall expressly provide that no less than thirty (30) days' prior written notice shall be given to the Owner in the event of material alteration to or cancellation of the coverages evidenced by such policies. Further, all policies shall contain endorsements waiving the insurer's right of subrogation against the Owner, its subsidiaries, agents and affiliated companies, and their directors, officers, agents and employees.

Upon renewal of each policy, the Contractor shall provide to the Owner a Certificate of Insurance evidencing all of the provisions specified in this Article.

The Contractor will maintain the original of all policies, endorsements and certificates, and provide the Owner with copies of same upon request of the Owner.

Article 38. Indemnity by the Contractor

The Contractor agrees to indemnify, defend and hold harmless the Owner from and against all claims, suits or demands of any kind and description, and from and against all alleged or actual damages, loss, fines or penalties which the Owner or the Owner's property may sustain, incur, suffer or receive and which arise or allegedly arise in whole or in part from the Contractor's performance under this Contract or from any other conduct, actions or inactions by the Contractor. The Contractor's indemnity obligations include, but are not limited to payment of all judgments, legal fees and expenses incurred by the Owner. The Owner's rights and the Contractor's indemnity obligations hereunder shall apply with full force and effect even if the Owner or any third party is or may be liable or responsible in part for the claim, suit, demand, damage, loss, fine or penalty sustained, incurred, suffered, or received. However, the Contractor's indemnity obligation shall apply for the amount and to the extent that the Contractor is at fault for or the cause of such loss or damages. The Owner's rights and the Contractor's obligations hereunder shall survive the expiration or termination of this Contract.

The Contractor's duty of indemnity shall apply with full force and effect even if the Owner provides the Contractor with environmental safety, health and training materials, goods or services or otherwise voluntarily assists the Contractor in protecting people and property and meeting its compliance obligations hereunder. The Contractor acknowledges that any such services provided by the Owner are provided voluntarily and solely for the purposes of assisting the Contractor in protecting the environment and people.

Article 39. Surety Bonds

Unless otherwise provided in writing by the Owner, the Contractor shall furnish a bond covering the faithful performance of this Contract and the payment of all obligations arising

thereunder, in such form as the Owner may prescribe and with such sureties as it may approve. If such bond was required by instructions given prior to the receipt of bids, the premium shall be paid by the Contractor; if subsequent thereto, it shall be paid by the Owner. If any change in Work is authorized pursuant to the terms of this Contract, the Contractor will be solely responsible for securing and maintaining bonds reflecting such change.

Article 40. Liens

Where permitted by applicable law, the Contractor shall not file a lien or encumbrance on the property in connection with the Project. Where the applicable law prevents the Owner and the Contractor from agreeing that the Contractor will not file a lien or encumbrance, neither the final payment nor any progress payment shall become due until the Contractor, if required, shall deliver to the Owner a complete release of all liens and claims arising on account of labor, materials, machinery or equipment in respect of which such payment is to be made and an affidavit that so far as the Contractor has knowledge or information, the releases include all the labor and materials for which a lien could be filed. The Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Owner to indemnify the Owner against any lien. If any lien remains unsatisfied after all payments are made, the Contractor shall pay to the Owner all monies that the Owner may be compelled to pay in discharging such a lien, including all costs and attorneys' fees.

Article 41. Assignment

The Contractor shall not assign or sublet this Contract in whole or in part, nor shall the Contractor assign any monies due or to become due it hereunder, without the prior written consent of the Owner.

Article 42. Coordination of Work

The Contractor shall conduct and coordinate all Work on the Project so as to cause no interference when possible, or a minimum of interference when such interference is unavoidable, with the Owner's activities and operations. Where interference with the Owner's operations becomes absolutely necessary, permission shall be requested by the Contractor not less than seventy-two (72) hours in advance.

When other contractors or the Owner's personnel are working on the Project on the immediate premises, the Contractor agrees to so schedule the Contractor's Work so as not to make it necessary for the Contractor to damage or otherwise alter any Work that has been completed by such other persons. If the Contractor fails to do so, then the Contractor shall replace or repair the damaged Work at the Contractor's own expense and in a manner satisfactory to the Owner.

If any part of the Contractor's Work depends upon the proper execution of the Work of any other person, the Contractor shall inspect and promptly report in writing to the Owner any defects in such Work that render it unsuitable for such proper execution and results. The

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Contractor's failure to so inspect and report in writing shall constitute an acceptance of such other Work as fit and proper for the reception of the Contractor's Work.

Article 43. Subcontractors and Suppliers

The Contractor will not employ any subcontractor without the prior written approval of the Owner, and the Contractor agrees to be responsible for any failure by the subcontractor to comply with the terms and conditions of this Contract which are in any way applicable to such subcontractor. Nothing herein shall be deemed to create a contractual relationship between any such subcontractor and the Owner or provide a basis for any claim by a subcontractor against the Owner.

All of the Contractor's subcontractors and suppliers shall be apprised of the terms and conditions of this Contract and shall be held liable, accountable for and subject to these terms and conditions in their own subcontract work and supply contracts to the same extent and degree that the Contractor is or would be liable, accountable for and subject to these terms and conditions in its Contract Work. It shall be the Contractor's duty to ensure that its subcontractors and suppliers accept and comply with the terms and conditions of this Contract and the Contractor shall supply to the Owner evidence of such compliance in a form acceptable to the Owner or provide a basis for any claim by a subcontractor against the Owner.

Article 44. Contractor Claims

If the Contractor is delayed, disrupted or interfered with or suffers damage or loss of any kind at any time in the progress of the Work by an act or neglect of the Owner, or a separate contractor employed by the Owner, or by changes or alleged changes ordered in the Work, or by an event giving rise to a claim of any nature (except changes that the Owner initiates under Article 27 above), or by a force majeure event (as defined in Article 51), then the Contractor's sole remedy against the Owner shall be the award of a change order extending the Contract performance period for such reasonable time as the Owner may determine. All claims for extension of the Contract time shall be made in writing to the Owner no more than twenty-one (21) days after the occurrence of the event giving rise to the claim, otherwise they shall be waived. An extension of the performance period of the Contract, to the extent permitted by the Owner, shall be the Contractor's sole and exclusive remedy from and against the Owner for any and all damages, losses, expenses or costs (consequential or otherwise) sustained by the Contractor in connection with or arising from changes or alleged changes, delays, suspension, acceleration, hindrance, obstruction, unanticipated or differing site conditions, costs, duration-related economic injury, loss of productivity, extended home office overhead or any damages or expenses of whatever type and amount to the Contractor. The Contractor hereby waives its rights to claim and be compensated for monetary damages, losses, expenses or costs (consequential or otherwise) in connection with, or arising from such events or circumstances. This Article shall not preclude the Owner from recovering from the Contractor all direct, consequential or other damages it may sustain, including but not limited to reprocurement costs that are caused by or arise in any way from the actions of the Contractor, its subcontractors or any of their officers, agents, affiliates or employees.

Article 45. Disputes

Claims, disputes or other matters in question between the parties to this Contract shall first be subject to mediation before arbitration. A demand for mediation shall be made within thirty (30) days after one party has notified the other party in writing that a dispute or claim has arisen. After the expiration of the thirty (30) day period, the parties may nevertheless agree in writing to submit the claim or dispute to mediation. Any mediation shall be held in accordance with the Construction Industry Mediation Rules of the American Arbitration Association in effect when the dispute arises, unless the parties mutually agree otherwise. The mediation shall take place at a mutually convenient location in the city closest to the Owner's facility originating this Contract. Demand for mediation shall be filed in writing with the other party to this Contract and with the American Arbitration Association. Any dispute or difference arising out of, or in connection with, this Contract which cannot be amicably settled between the parties by mediation shall be finally settled by arbitration under the Rules of Construction Arbitration of the American Arbitration Association. The arbitration shall take place at a mutually convenient location in the city closest to the Owner's facility originating this Contract. The resulting decision of the arbitrators shall be final and binding on the parties. Judgment upon any award rendered by the arbitrators may be entered in any court having jurisdiction thereof. In no event shall the demand for mediation or arbitration be made after the date when institution of legal or equitable proceedings based upon such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

Article 46. Title

Title to all Work completed or in the course of construction shall be in the Owner; and title to all machinery, equipment and materials to be incorporated in the Work shall be in the Owner as soon as they are delivered on the site of the Project.

Article 47. Technical Information

The term "technical information" as used in this Contract includes, but is not limited to, technical data, reports, models, drawings, specifications, operating manuals, designs, computations, formulas, apparatus, processes, patentable or unpatentable inventions and other engineering data. The Contractor agrees to accept the Owner's decision as to whether any particular information is technical information which has been made or conceived under this Contract.

It is understood that in the course of the Contractor's performance hereunder, the Contractor may learn or have access to technical information of the Owner. Unless otherwise required by law, the Contractor agrees that it and its personnel will keep in confidence all such technical information of the Owner and will not use or disclose the same without the Owner's written consent, either during the term of this Contract or at any time thereafter.

The Contractor agrees to disclose to the Owner all technical information made or conceived by it or its personnel in performance, or resulting from performance, under this

"Force majeure" shall be any cause beyond the control of the parties hereto which they cannot reasonably have foreseen and guarded against. Force majeure includes but is not limited to, acts of God, labor disputes, financial crises, fires, riots, civil commotions or civil unrest, incendiarism, interference by civil or governmental authorities, and acts of war (declared or undeclared). Should any dispute arise between the Owner and the Contractor regarding a force majeure event, such dispute will be resolved pursuant to Article 45 of the Contract.

Article 52. Notice

Written notice shall be deemed to have been duly served if delivered by hand or sent by certified or registered mail, in each case to the address or addresses of each party set forth on the first page of this Contract and to the attention of the facility, plant, or contract manager as appropriate. Also, where written notice is required under the Contract from the Contractor to the Owner, the Contractor shall also send separate notices to the Owner's Plant Manager, Project Manager and Environmental Manager at the plant address set forth on the first page of this Contract. Each party shall advise the other in writing of any applicable address change.

Article 53. Governing Law

This Contract including all Contract Documents as well as performance and all disputes hereunder, shall be governed by and construed in accordance with the laws of the state or commonwealth where the Owner receives the beneficial use of the Work. The Owner shall be deemed to receive the beneficial use of the work at the permanent location where the structure or facility is being or will be constructed.

Article 54. Entirety Clause/Waiver

The terms and conditions of this Contract constitute the sole, exclusive and entire agreement between the Owner and the Contractor. Any modifications must be set forth in writing and signed by the Owner's and the Contractor's duly authorized representatives. If any provision herein is held to be invalid by any competent court, the remaining provisions of this Contract shall survive and remain in full force and effect. Any waiver by the Owner of any term, right or obligation under this Contract shall not be construed as a waiver for all purposes or for all subsequent opportunities for performance under this Contract.

ASARCO ELP 0011125

"FIXED PRICE" CONSTRUCTION OR REPAIRS CONTRACT
(FORM FP-10/97)

IN WITNESS WHEREOF, the parties by their duly authorized representatives have executed this Contract and entered into this Contract on the dates set forth below. The date provided below by the final signatory to this Contract shall be the effective date of this Contract.

GEMCO CONSTRUCTION, INC.,
CONTRACTOR

By: Jim Bissett

Print Name: _____

Address: 415 N. MESA, SUITE 110
EL PASO, TX 79909

Title: _____

Date: _____

ASARCO, INC. **OWNER**

By: L. W. Castor

Print Name: L. W. CASTOR

Address: 2301 WEST WEST PAISANO STREET
EL PASO, TEXAS 79922

Title: PLANT MANAGER

Date: 12/11/97

Contract. The Contractor agrees that all such technical information or inventions made or conceived by it or its personnel shall become and remain the free and unrestricted property of the Owner and that the Contractor shall assign or cause the same to be assigned to the Owner. The Contractor agrees that it and its personnel will keep in confidence all such technical information made or conceived by the Contractor or its personnel and that the Contractor and its personnel will not use or disclose the same without the Owner's written consent, either during the term of this Contract or at any time thereafter.

The Contractor agrees, upon the request and at the expense of the Owner, to make or cause its personnel to make applications for patents in such countries as the Owner may designate on those of the aforesaid assigned technical information or inventions which the Owner believes to be patentable and to assign all such applications to the Owner or its order; and to give the Owner, its attorneys and solicitors all reasonable assistance in preparing such applications, and in prosecuting such applications in the patent office or offices involved and in defending and enforcing any patent that may be issued upon any such application; and to execute all papers that may be reasonably required in the prosecution of such applications or to vest in the Owner or its assigns said inventions, applications and patents.

Article 48. Cleaning Up

The Contractor shall at all times keep the premises free from accumulations of waste material or rubbish caused by the Contractor or the Work. At the completion of the Work, the Contractor shall remove all of its rubbish, tools, scaffolding and surplus materials from and about the site and the Contractor shall leave the Work "broom clean" or its equivalent, unless more exactly specified.

Article 49. Adaptability of Plans and Specifications

Except in the case of patented products for which there is no adequate substitute, the Contractor will not, without the prior written approval of the Owner, prepare any drawings or specifications or do any engineering or planning for the prospective use or installation of any tool, piece of equipment, or material in the Work which is of such a character that such drawings, specifications, engineering or planning could not be used with equal facility in connection with the product of all or most manufacturers of such tools, equipment or materials, or any substitute therefor.

Article 50. Engineering Approval

The Contractor agrees to order no material or equipment and to do no actual construction, and to permit no Work to be done by any subcontractor or supplier of materials or equipment until the drawings relating thereto, the lists and specifications of materials, the equipment to be used and the supplier have been approved by the Owner. During construction, the Contractor shall make no substitution of material without the prior written approval of the Owner.

Article 51. Force Majeure

ASARCO

El Paso Plant

March 5, 1997

ASARCO INCORPORATED

EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

Asarco Incorporated's El Paso Plant has a long standing policy that its employment practices shall provide equal opportunity for all applicants without regard to race, color, creed, sex, age, national origin, handicap, disabled veteran or veteran of the Vietnam era.

We at Asarco Incorporated are ever mindful of our obligations and responsibilities to the communities in which we operate and to the nation as a whole. One of our chosen responsibilites is to insure equal employment opportunities for all without regard to race, age, color, creed, sex, national origin, handicap, disabled veteran or veteran of the Vietnam era.

Our hiring practices, promotions, and transfers at all levels of employment continue to be based on an individual's qualifications and ability to perform satisfactorily the job requirements with due regard to seniority, while furthering the principles of Equal Employment Opportunity.

Within Asarco Incorporated our management must provide the lead in establishing procedures to continue successfully administering this declared policy on non-discrimination. The effectiveness of this policy requires a high degree of cooperation on the part of all Asarco personnel, at every job level within the company. All supervisors are responsible for the continued promotion and enforcement of this policy throughout our organization, as well as maintaining a work environment free of unwarranted intimidation or hostility.

Mr. Lee Jurzec, Administrative Manager, will administer our Equal Employment Opportunity Program. I know he will have your close and active cooperation in this matter.

L. W. Castor

L. W. CASTOR

LWC:jkm

ADDENDUM "A"

Lead is present in varying concentrations at the site where the work under this contract is to be performed. Inhalation or ingestion of lead can result in chronic or acute lead poisoning, the latter of which can be fatal. The Contractor acknowledges that he has been fully warned of these health risks and that he has received a copy of the Material Safety Data sheets pertaining to lead. Prior to the commencement of work, the Contractor agrees to inform his employees and subcontractors, if any, of these risks; provide them with appropriate and complete safety instructions; distribute to each such employee a copy of the attached booklets describing safety precautions to be observed and stressing the health dangers from exposure to lead in general. Contractor further agrees that it shall require each of its employees and those employees of its subcontractors who shall be performing work under this Contract to (1) fully comply with federal OSHA regulations (including, but not limited to, the wearing of approved respirators and protective clothing) and such other regulations, laws, or ordinances as may be or become applicable at any time during the term of this contract and (2) permit Owner or any person designated by Owner to take such blood, urine or other specimens as may be deemed desirable by Owner to monitor exposure levels. Contractor shall remove from the job such person whose test, in Owner's opinion, exceeds acceptable levels. The terms of this paragraph are material to the performance of this Contract; any breach will allow Owner to terminate this Contract immediately. The Contractor will indemnify and hold Owner and its subsidiaries harmless from any claims, suits, actions, demands, proceedings, liability or damages of any character which arises or is alleged to arise out of Contractor's failure to comply with any provision of this paragraph, or the performance of any work under this Contract, including those brought against Owner and its subsidiaries for personal injury, property or other damages. This indemnity shall survive termination of the Contract.

ASARCO CONTRACTOR POLICY

TYPICAL CONTRACTOR SAFETY AND HEALTH PROGRAM ELEMENTS

A. Prior to beginning work, contractors must develop a site-specific safety and health program that meets all applicable safety and health regulatory requirements. Contractors must understand the importance of developing an effectively-functioning program that is pro-active and addresses the potential exposures to their employees for the particular job to be done. Potential exposures should be addressed extensively in the safety and health program.

B. The program should describe in detail how job safety and health is to be incorporated into each phase of the work. Typical subjects to be covered in the safety and health program include:

1. Accident investigation procedures
2. Biological monitoring
3. Bloodborne pathogen programs (e.g. contractor's emergency responders)
4. Confined space procedures
5. Disciplinary action
6. Emergency procedures
7. Fire protection and prevention
8. First aid
9. Hazard communication
10. Incident reporting and investigation
11. Lockout/Tagout
12. Medical surveillance
13. Occupational health programs (e.g. lead, cadmium, arsenic, construction lead and cadmium)
14. Orientation for new hires
15. Personal protective equipment
16. Process safety management

ASARCO ELP 0011130

17. Reporting unsafe acts or conditions

18. Safe work areas

19. Safe and healthful orientation for supervision

20. Special instructions and/or information

21. Supervising for safety and health

22. Toolbox safety meetings

23. Task training

24. Training mandated by OSHA or MSHA

25. Process safety management procedures

C. General Requirements for Contractors

1. Each contractor shall be directly responsible for initiating and maintaining a safety effort to prevent his employees from working under conditions which are unsafe, unhealthy, or unsanitary. The contractor's compliance with the Mine Safety and Health Act, the Occupational Safety and Health Act, state and local codes governing safe work practices, and ASARCO's site Safety Manual is mandatory.

2. Each contractor is required to conduct substance abuse screening for all prospective employees.

3. Carelessness or disregard for accepted health, safety, and fire protection standards will not be tolerated.

4. The contractor shall prohibit the use of unsafe machinery, tools, material, or equipment. These shall be identified as unsafe by tagging or by locking the controls to render them inoperable or they shall be removed from service in accordance with applicable regulations.

5. The contractor shall permit only employees who are qualified and competent by virtue of training or experience to operate equipment and machinery.

6. Contractors shall instruct their employees to recognize and avoid unsafe conditions. Employees should know the regulations applicable to their work environments to control or eliminate any hazards that cause exposure, illness, or injury.

7. Contractors shall instruct and train each of their employees required to handle or use flammable liquids, gases, toxic materials, poisons, caustics, and other harmful substances in their safe handling and use. Contractors

shall provide training to their employees on potential hazards, necessary personal hygiene, personal protective measures, and all other matters required by the OSHA Hazard Communication Standard and any other applicable OSHA or MSHA standards governing exposure to specific hazardous substances.

8. Contractors shall instruct and train their employees required to enter confined or enclosed spaces in accordance with OSHA confined space requirements.

9. Any contractor employee reporting to work intoxicated or apparently under the influence of intoxicants or drugs will not be permitted on job site.

10. Designations of areas posted as "OFF LIMITS," "RESTRICTED ACCESS," or the like shall be obeyed by all employees.

11. Alcohol and firearms are prohibited on Facility property.

12. Any physical impairment, handicap, or medication taken regularly must be reported to a supervisor and the first aid facility.

13. Contractor employees must know the symptoms, as well as the causes, treatment, and prevention of heat stroke and exhaustion. Symptoms may be due to a combination of high heat, humidity, low air movement, tvyek suits, or job conditions.

14. Contractors working in restricted areas must ensure that biological and/or air monitoring, if required, is conducted. While ASARCO prefers that such monitoring be conducted by the contractor, any such monitoring performed by ASARCO for contractor employees is voluntary and done to enhance safety and health in the workplace. Such actions do not change or diminish the contractor's responsibilities regarding biological monitoring. If monitoring is performed by ASARCO, the delivery of monitoring results to contractor and its employees must be documented along with any preventive action required by contractor. Furthermore, any such voluntary services provided by ASARCO will be addressed in contract provisions.

D. Contractor Safety Education, Training and Promotion

1. A proven means of instituting and reinforcing a safety program is through carefully planned and conveyed safety education, training and informational activities. These activities must be presented logically and systematically to ensure that all employees know their obligations and responsibilities for achieving a safe work environment.

2. ASARCO requires contractors to convey the message that safety is a priority through a variety of activities. These activities include, but are not limited to:

a. New hire safety and health orientation/indoctrination by contractor safety representative.
b. Contractor foreman safety and health orientations for employees.
c. Weekly contractor "Toolbox" safety and health meetings.
d. Project safety and health bulletin boards.

3. All newly-hired contractor employees must be required to attend a safety and health orientation on the first day of employment. The orientation will be conducted by the contractor and ASARCO prior to assigning employees to begin work. This includes all contractor personnel as well as subcontractor personnel.

4. Employees of a low risk contractor, as defined in ASARCO's Contractor Policy at Section C(1), may not require all aspects of safety and health training if accompanied by an authorized ASARCO representative but must be given appropriate hazard recognition and emergency training.

5. The contractor has primary responsibility to maintain a safe and healthy working environment.

6. Employees shall take all necessary precautions to ensure their own personal health and safety and that of other workers and to cooperate with ASARCO's safety effort.

7. The contractor must know and follow the reporting procedures for occupational injuries and illness. Every injury and illness shall be reported as required by the site and to the employee's supervisor. Any employee who has obtained outside medical treatment for an alleged work site injury or illness must report his or her injury or illness and the name of the attending physician to the first aid facility and his/her supervisor no later than the first normal scheduled workday following his or her outside medical treatment.

8. Every employee shall be informed that attendance at scheduled weekly contractor "Toolbox" safety and health meetings is mandatory. This weekly meeting will allow employees to ask questions, offer suggestions, and air complaints about safety on the project.

9. Employees shall be instructed that they are to report all unsafe acts or conditions. ASARCO's representative must be informed of any such reports. Any unresolved problems shall be reported to the Contractor Safety Coordinator and to ASARCO's representative. **IN CASES OF "IMMINENT DANGER," THE HAZARD SHALL BE IMMEDIATELY ABATED OR PROTECTIVE ACTION SHALL BE IMMEDIATELY TAKEN TO PREVENT INJURY. THE EMPLOYEE SHALL NOTIFY THE FIRST CONTRACTOR AND/OR ASARCO SUPERVISOR THE EMPLOYEE CAN FIND OF THE SITUATION. THE EMPLOYEE SHALL COMPLETE SUCH NOTIFICATION WITH ALL DUE SPEED!**

10. A safety discipline, warning letter, suspension or termination or other appropriate written notification is to be utilized in disciplining employees for unsafe acts.

11. Each employee is to be informed on established emergency procedures so that he/she may render voluntary assistance in case of serious injury, fires, evacuation, etc.

12. Every contractor employee is required to wear personal protective equipment, as mandated by applicable regulations, and ASARCO site policy. Minimum requirements for personal protective equipment are referenced in Section H.

13. All "air contaminants" regulated areas are marked throughout the Facility by posted signs. Approved respirators must be worn in these regulated areas by all contractor employees. Although the Facility has extensive controls to minimize air contaminants, systems can malfunction, or employees may be working in an area where controls are not feasible. Contractors must emphasize that employee protection depends upon proper respirator use. Again, in instances where ASARCO voluntarily provides respirators for contractor personnel, such action does not diminish or change the contractor's responsibility in connection with respiratory protection for its personnel, and such voluntary actions by ASARCO will be addressed in the contract.

14. If a contractor's employees may be exposed to hazardous substances for which OSHA has established specific compliance requirements, in addition to the permissible exposure level, e.g., arsenic, cadmium, and lead, the contractor must develop a written compliance program that meets all applicable OSHA requirements, including the following:

    a. A description of each operation in which the hazardous substance is emitted, e.g. machinery used, material processed, controls in place, crew size, employee job responsibilities, operating procedures, and maintenance practices.

    b. A description of the specific means that will be employed to achieve compliance, including engineering plans and studies used to determine methods selected for controlling exposure, as well as, where necessary, the use of appropriate respiratory protection to achieve the Permissable Exposure Limit (PEL).

    c. A report of the technology considered in meeting the PEL.

    d. Air monitoring data that document the source of the regulated emissions.

    e. A detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.

f. A work practice program that includes all elements required by OSHA with regard to emergency situations and a written emergency situation plan, protective clothing and equipment, and hygiene areas and practices.

g. Any other relevant information.

h. An administrative control plan provision and schedule, if appropriate.

i. A description of the compliance arrangements made between the contractor and any sub-contractors that assure subcontractor compliance with applicable regulations and with these requirements.

The contractor's written compliance program must be updated at least every six (6) months, and more frequently if necessary. The contractor may be provided a copy of ASARCO programs to assist in the development of its own program. However, ASARCO's program can not be substituted for the contractors; and the contractor's program must address the specific job/project at ASARCO's facility.

E. Weekly Contractor Toolbox Safety and Health Meetings

1. The contractor will hold weekly safety and health meetings with the workers to discuss work practices and conditions related to safety and health.

2. Upcoming activities, additional materials such as health risk reminders or prior week's accidents, and the "topic of the week" will be provided by the contractor.

3. The contractor will make records of these meetings.

4. Attendance at these safety and health meetings is mandatory. Once established, the day, time, and location of these meetings should not be changed unless absolutely necessary.

5. Copies of records of safety and health meetings shall be available to ASARCO upon request.

F. Project Safety Bulletin Boards

1. In order to promote safety and maintain a highly visible safety profile on the work site, contractors shall establish safety bulletin boards.

2. Bulletin boards will be of sufficient size to accommodate the following material:

a. Appropriate Mine Safety and Health, Occupational Safety and Health, and Workers' Compensation information posters.

b. Emergency phone numbers, e.g., fire department, ambulance, hospital, etc.

c. ASARCO Site Safety Manual.

d. ASARCO Independent Contractor Safety and Health Policy.

e. Contractor Safety and Health Program.

f. Appropriate safety posters.

g. Green and white metal safety placard stating:

NOTICE
YOUR CONTINUED EMPLOYMENT
ON THIS PROJECT IS DEPENDENT
UPON YOUR WILLINGNESS TO
OPERATE SAFELY.
YOU MUST FOLLOW THESE SAFETY RULES.
BELIEVE IN AND INSIST
UPON SAFETY.

h. Location of Material Safety Data Sheets and name and phone number of person to contact (right-to-know).

3. Bulletin boards will be located where they are readily accessible, may be easily read by employees, and will not be destroyed.

4. Each contractor has the responsibility to see that the material on the bulletin board is current.

G. SAFETY EQUIPMENT & POLICY

1. It is the responsibility of contractor and subcontractor management to assure strict compliance with established safety rules, regulations and policies.

2. Safety offenders are to be disciplined and terminated when necessary.

3. The safety orientation or training held for all employees shall specify verbally that violations of the Mine Safety and Health Act, Occupational Safety and Health Act and/or ASARCO's Site Safety Manual and/or Contractor Guidelines may result in penalties up to and including termination.

4. It is the responsibility of the contractor to communicate, to all management and hourly employees, that safety and health is the number one priority on the job site.

H. PERSONAL PROTECTIVE EQUIPMENT -- Minimum Requirements for Contractors

1. Hard Hats: ANSI approved (Z-89.1) hats or caps. Aluminum headgear is not permitted.

2. Safety Glasses or Goggles: ANSI approved clear with side shields appropriate to the job. No shade/tint glasses permitted. No contact lenses are permitted in designated work areas. Note: Should your employee wear non-safety prescription glasses he or she will wear a pair of safety goggles (OSHA approved) over the glasses.

3. Hearing: Hearing protection devices, such as ear plugs or muffs, must be provided which provide protection that meets or exceeds OSHA standards.

4. Work Clothes (where applicable): Contractors will furnish, clean and maintain all required work clothes.

5. Respirators:

   a. Furnish, clean, and maintain appropriate respirators and cartridges that meet OSHA and ANSI standards.

   b. Contractor employees must be fit tested to ensure a proper face seal.

   c. Beards are not permitted. Contractor employees using respirators must be clean shaven daily to ensure proper face seal.

6. Work Gloves: Contractors will supply work gloves appropriate for the job and meeting all ANSI and OSHA standards.

7. Safety toe shoes: Must meet OSHA and ANSI minimum standards and be provided by contractors.

8. Burners: Welders will wear OSHA/ANSI approved fire resistant gloves, leathers, fire retardant jackets (long sleeve) and required eye/face protection when welding, and such protective gear will be provided by contractors.

9. Safety Belts and Lanyards: ANSI approved safety belts and lanyards must be worn at all times in areas where the danger of falling exists and contractors must provide them as required by OSHA standards. Workers must tie off, i.e., secure themselves to a part of the structure they are working on or a static line.

10. Acid Suits: Required in designated areas or in area where the potential for contact with acid exists, and OSHA required, ANSI approved suits must be provided by contractors.

11. Face Shields/Goggles: Must be worn when working with liquid metals, chemicals, or when safety glasses do not provide adequate protection.

Such protective devices must be ANSI approved, meet OSHA standards, and be provided by contractors.

I. Mobile Equipment

1. Mobile heavy equipment has the right-of-way.

2. Use installed seat belts while operating equipment.

3. Do not exceed lifting capacities of equipment.

4. Use hooks with safety latches only.

5. When using man lifts, fall protection must be in place. Safety protection checklists must be maintained for the condition of lift equipment.

6. Heavy equipment as well as light duty vehicles must be inspected at the beginning of each shift to ensure safe operating condition. Equipment operators must complete an "operator inspection card". Equipment found to have defects that affect safety must not be put into service until corrected.

J. Flammable & Combustible Materials

1. Gasoline, diesel fuel, kerosene, and flammable solvents such as naphtha, xylene, or acetone shall be handled only in approved safety cans. Containers must be properly labeled and shall not be used for other purposes.

2. All oxygen and acetylene bottles shall be kept capped (except when gauges are in use) and secured in an upright position. Oxygen and acetylene shall be stored separately.

3. All hoses and gauges must be inspected before use. They must be separated by a minimum of 20 feet or a fire wall with a burn rate of 1 hour. Fire fighting equipment must be provided and available in the work area prior to welding or cutting.

4. Compressed oxygen and fuel cylinders (tanks) must be kept upright and secured, with the regulator and valve caps on at all times. Hoses must be gathered and arranged to eliminate tripping or other hazards.

5. All flammable chemicals must be sealed in properly marked containers and stored in an OSHA approved cabinet.

K. Other Rules

1. Contractor employees are required to inspect their work sites for hazards prior to initiating work and perform repeated hazard inspections throughout the day.

2. Compressed air lines shall not be used to blow down clothing or clean work areas.

3. Contractor employees will notify the site supervisor of any exposed electrical contact points.

4. Crane hooks and headache balls shall not be ridden nor shall steel columns be climbed or used as a means of descent.

5. When working overhead, a warning sign must be posted in a visible location and the area barricaded if necessary. Tools and materials must be secured to prevent them from falling below where they may cause an accident.

6. All tools and equipment must be physically inspected for damage. Those found to be unsafe must be taken out of service for repair. Power tools cannot have a lock-on switch and must be grounded.

7. All excavated fill must be kept a minimum of 3 feet away from the hole. An access/egress ladder must be in the hole any time an employee is working in the hole. The perimeter of the hole must be barricaded and warning lights used at night.

8. Ladders must be the proper size for the job to be performed and equipped with safety shoes. Inspect each ladder for damage before using it. Do not use a ladder that is broken or shows signs of fatigue! Take it out of service. Extension ladders will be tied off and secured against a stationary rest. When climbing or descending a ladder, use both hands.

9. Scaffolds must be set up by qualified personnel only. Only appropriate scaffold sills, posts, and base plates will be used. Braces must be fastened securely. All stages or planks must have rails, toe boards, and cleats in accordance with OSHA regulations.

10. Guards, safety devices, and limit switches must be in place and operational before using any equipment.

11. Do not remove guards or safety devices to operate any equipment.

12. Use the appropriate device to block equipment being repaired. Never depend on hoist or chain blocks to do the job.

13. Use hand tools only for the purpose for which they were designed.

14. Regular housekeeping must be performed to avoid health or safety hazards.

15. In areas of potential toxic exposure, consumption of food, beverages or tobacco is prohibited.

16. In areas of potential toxic exposure, shoveling, dry or wet sweeping and brushing may be used only where vacuuming or other equally-effective methods have been tried and found not to be effective.

17. Construction projects with potential lead exposures must independently comply with OSHA's lead construction standard.

L. Contractor Safety Representative: Each contractor will designate a Facility Contractor Safety Representative who will be directly responsible for safety and health within that contractor's scope of work. This representative will communicate with ASARCO to eliminate unsafe acts/conditions at the site as required by ASARCO's contract with the contractor.

M. Contractor Safety Representative Must Be Required To:

1. Conduct daily safety and health inspections of work areas to monitor contractor's safety and health activities.

2. Work with all subcontractors and their safety representatives to eliminate unsafe conditions and/or acts.

3. Assist with (but not limited to) the following:

a. Attend the contractor's "Toolbox" safety meetings.

b. Required employee training including voluntary first aid, CPR, self-rescuer, etc.

c. Industrial hygiene, environmental and biological monitoring for noise pollution, air quality, blood levels, etc., as required.

d. Development of statistical information for accident, injury, and illness tracking, trending and workers' compensation.

N. Contractors and their subcontractors are responsible for the safety and health of their own employees and must:

1. Provide and execute all work in compliance with federal regulations, all state and local codes, ASARCO's Safety Manual and the Contractor Health and Safety Guidelines.

2. Provide and enforce the use of required personal protective equipment .

3. Provide supervisory investigation reports for all accidents, property damage, and environmental incidents.

4. Attend orientation sessions addressing safety.

5. Schedule and attend weekly "Toolbox" safety meetings for all employees.

6. Take immediate action to correct or protect against unsafe practices or conditions when discovered.

7. Comply with OSHA's Hazard Communication Program, Construction Industry standard for lead and all other standards applicable to specific hazardous substances, Walking and Working Surface Standards, and all other applicable OSHA or MSHA standards.

8. Report observed unsafe conditions or practices or violations of job security which are not within contractor's jurisdiction.

9. Inspect work places, tools and equipment as required by OSHA, MSHA, manufacturer, ASARCO Safety Manual, and this guide.

10. Provide a copy of written safety program to ASARCO.

O. Statutory Safety And Health Requirements and Inspection:

1. The Mine and Occupational Safety and Health Acts (MSHA/OSHA)

a. The contractor and its employees are expected to know the requirements of MSHA/OSHA and to work diligently to comply with applicable requirements.

b. It is the contractor's responsibility to keep up with changes in MSHA/OSHA legislation and regulations and to comply with these changes.

c. The safety and health regulations and standards promulgated by MSHA/OSHA, ASARCO's Site Safety Manual and these guidelines are considered to be the minimum performance acceptable for contractors while completing a contract for ASARCO.

d. ASARCO facilities are regulated by MSHA and/or OSHA standards. Every effort to achieve compliance must be made by each contractor. The contractor must initiate immediate corrective action in the event a violation of these standards is discovered.

2. OSHA/MSHA Compliance Inspections

a. Periodically, MSHA/OSHA compliance officers may be required to inspect workplaces for the purpose of ensuring that employers are complying with the health and safety standards.

b. ASARCO is to be promptly notified when an MSHA/OSHA compliance officer visits the site, or any telephone or written inquiry is received by the contractor from any MSHA or OSHA official.

c. An MSHA/OSHA compliance officer must present his/her credentials and state specifically the nature and scope of the visit.

d. MSHA/OSHA representatives must be treated in a courteous manner.

e. Copies of any MSHA/OSHA citations, penalties, notices, orders, or correspondence issued to the contractor or subcontractor will be provided to ASARCO.

ASARCO

El Paso Plant

March 5, 1997

TO: ALL ON-SITE CONTRACTORS

WASTE HANDLING

All hazardous and nonhazardous waste must be managed in accordance with all current applicable safety and environmental regulations. It is the responsibility of each contractor to provide and maintain acceptable labels on each of their waste containers in the Plant. All waste containers are to be covered and lableled as to contents at all times. It is the responsibility of each contractor to clean the work area every day. At the completion of the project they should remove all waste containers and waste materials associated with the project from Asarco's property.

Please contact Mr. Joe Baca (541-1895) at the environmental office with any questions.

Carl Glaser

Carl Glaser
Plant Engineer

CG:jkm

ASARCO

El Paso Plant

March 5, 1997

TO: ALL CONTRACTORS AND GENERAL CONTRACTORS PERFORMING SERVICES ON ASARCO EL PASO SMELTER PROPERTY

COMPLIANCE WITH OSHA AND ASARCO SAFETY OR PERSONAL PROTECTIVE EQUIPMENT REGULATIONS

Under regulations established by the Occupational Safety and Health Administration, the use of specific personal protective safety devices and the adherence to safe work standards designed to ensure the health and safety of workers, is an absolute requirement. In addition to ensuring that its own workers are properly protected and that they follow all of the safety standards established for their protection, companies have an obligation to inform all contractors performing work on the company's property of hazards which may be present, safe work standards used at the company's location, and to enforce company safety regulations, as well as the use of all personal protective equipment required for working within the company's facilities. Failure on the part of a company to comply with the aforementioned could result in heavy fines and penalties. Contractors working at another company's location are required to adhere to that company's safety standards and regulations. This requirement is also mentioned in Asarco's contract agreements with outside contractors.

To assist you in understanding our safety requirements and in providing proper safety related instructions for your workers, our Safety Engineers provide an orientation which outlines our safety program. Further, we can provide contract workers with much of the personal protective safety devices that they will be required to use while performing work at our plant. Therefore, we must insist that all contract workers use these devices in accordance with our safety regulations, and follow our safety rules and regulations at all times.

Our managers and supervisors have been instructed to warn contract workers whenever they are in violation of safety rules, and record these violations. If these violations continue to occur, indicating an unwillingness on the part of a contractor's workers to cooperate with our regulations, the contractor will be required to remove their workers from our plant properties.

I hope that all of you can understand and appreciate the importance of these issues, and inform your workers of the need to adhere to our policies. If you have any questions regarding this matter, please feel free to contact me or our Safety Department for further information.

L. W. CASTOR
Unit Manager

LWC:jkm

ASARCO

El Paso Plant
L. W. Castor, Unit Manager

March 27, 1997

To: All Contractors

From: Mr. L. W. Castor, Unit Manager

All companies, contractors and contractor agents performing work on ASARCO El Paso Plant property need to be aware that English is the primary language spoken at this facility. All ASARCO employees are required to be able to read, write, and speak the English language with sufficient comprehension to understand all job related instructions, including safety and health rules or regulations, as a condition of their employment.

The employees of contractors working on ASARCO Plant property are, by law, required to observe all of our plant's safety rules or regulations while working at our facility. They must also be able to comprehend any instructions given during their orientation to our plant or given by any of our authorized management personnel during those times when they are performing their jobs. Although it is not ASARCO's intention to alter any other company's hiring guidelines, we are advising all contractors that we reserve the right to remove or reject any employee working on our property, regardless of who their employer of record is, if we believe that they are incapable of meeting our standards for the comprehension of verbal or written instructions that involve issues of safe work practices on our property.

Any questions regarding this policy should be directed to the ASARCO El Paso Plant Administrative Manager.

L. W. Castor
Unit Manager

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