
Space above this line for Recorder's use.

After recording, return to:

Grantee

Oregon DEQ
[Address]
[City, OR ZIP]
Attention: [Name]

Grantor

[Name]
[Company]
[Address]
[City, State ZIP]

AGREEMENT
TO
FACILITATE CLEANUP AND PRODUCTIVE REUSE OF PROPERTY

DEQ No. [PPA#]

BETWEEN: Oregon Department of Environmental Quality

AND: [Party]

This Agreement to Facilitate Cleanup and Productive Reuse of Property (“Agreement”) is entered between the Oregon Department of Environmental Quality (“DEQ”) and [Party] pursuant to ORS 465.327. This Agreement contains the following provisions:

<u>Contents</u>	<u>Page</u>
1. RECITALS	2
2. STIPULATIONS	3
3. MEASURES TO BE UNDERTAKEN	Error! Bookmark not defined.
A. Remedial Design and Remedial Action [If applicable; in the alternative, incorporate plan for restoration or other productive reuse of the property]	4
B. Modification of SOW or Related Work Plans	4
C. Additional Measures	5
D. Site Restrictions [if applicable]	5
E. Property Activities	6
4. GENERAL PROVISIONS	6
A. Project Managers	6

B. Supervising Contractor.....	6
C. DEQ Approvals	7
D. Access to Property	8
E. Records	8
F. Notice and Samples	9
G. Quality Assurance	9
H. Progress Reports	10
I. Reimbursement of DEQ Costs	10
J. Force Majeure.....	11
K. Dispute Resolution.....	12
L. Effect of Agreement	13
M. Indemnification	14
N. Public Notice.....	14
O. Parties Bound	14
P. Modification	14
Q. Recording.....	14
R. Transfer of Interest.....	14
5. RELEASE FROM LIABILITY	15
6. WAIVERS	16
7. BENEFITS AND BURDENS RUN WITH THE LAND.....	16
8. COMPLETION OF WORK	16
9. SIGNATURES.....	17

Exhibit A – Legal Description of Property

Exhibit B – Statement of Work

Exhibit C – Easement and Equitable Servitude **[if applicable]**

1. RECITALS

- A. The property (“Property”) subject to this Agreement is located at **[Street Address]** in **[City]**, Oregon. The legal description of the Property is set forth in Exhibit A to this Agreement.
- B. **[Summarize site history.]**
- C. **[Summarize prior site investigations.]**
- D. **[Briefly describe releases of hazardous substance(s) at property.]**
- E. The contaminants described in Subsection 1.D. are “hazardous substances” within the meaning of ORS 465.200(16). The presence of hazardous substances at the Property constitutes a “release” of hazardous substances within the meaning of ORS 465.200(22), and makes the Property a “facility” within the meaning of ORS 465.200(13). Remedial action is necessary at the Property to protect human health or the environment.

- F. Pursuant to ORS 465.255(1)(b), [Party] could become liable to DEQ and other persons for releases of hazardous substances at or from the Property by becoming the owner or operator of the Property with actual or constructive knowledge of the releases. On [Date], [Party] applied to DEQ for entry of this Agreement.
- G. [Party] is [Select: an individual/Oregon corporation/other state corporation/a federal or state agency/a unit of local government], and a “person” within the meaning of ORS 465.200(21). [Party] is not currently liable under ORS 465.255, 466.640, or 468B.310 for the release of hazardous substances existing at the facility as of the date of this Agreement.
- H. [Briefly describe planned cleanup or development/use of property; cross-reference ROD or other decision document, if any, and summarize public benefits that will result from cleanup and/or development/us of property.]
- I. DEQ determines that a “substantial public benefit” will result from this Agreement, within the meaning of ORS 465.327(1)(d).
- J. Based upon the information submitted by [Party], DEQ determines that the proposed reuse or redevelopment activities at the Property will not contribute to or exacerbate existing contamination, increase health risks, or interfere with remedial measures necessary at the Property.
- K. In determining to enter this Agreement, DEQ considered reasonably anticipated future land uses at the Property and surrounding properties and consulted with [Name of land use planning jurisdiction(s)].

2. STIPULATIONS

- A. For the purposes of this Agreement, the “Facility,” as defined in ORS 465.200(13), means: (a) the Property; and (b) the full extent of existing known or unknown contamination by hazardous substances of any media on, above, or below the Property, or that has migrated, might have migrated, or hereafter migrates to anywhere from the Property.
- B. For the purposes of this Agreement, “Existing Hazardous Substance Releases” means: (a) any release of hazardous substances, as defined in ORS 465.200, at the Facility existing as of the date of [Party’s] acquisition of ownership or operation of the Property; (b) any spill or release of oil or hazardous material, as defined in ORS 466.605, at the Facility

existing as of the date of [Party's] acquisition of ownership or operation of the Property; and (c) the entry of oil into the waters of the state, as defined in ORS 468B.300, from the Facility before the date of [Party's] acquisition of ownership or operation of the Property.

C. Nothing in this Agreement obligates DEQ to conduct or pay for any removal or remedial activities of any kind regarding the Property or releases from the facility.

3. WORK TO BE PERFORMED

[NOTE: this section will be agreement-specific, dependent on the "public benefit" measures proposed by the 2nd party. If the measures include remedial work, and the 2nd party will be performing them, this section should specify the work and/or reference an attached SOW. If this agreement will not be a stand-alone agreement encompassing both the "prospective purchaser" provisions and remedial requirements, this section should incorporate or cross-reference any other DEQ agreement/order specifying the necessary remedial measures. This also should be done if a 3rd party is performing the remedial measures and the party to this agreement, for example, is only providing funding for the remedial measures. Note: the performing 3rd party will be required to enter into a separate agreement or Consent Order with DEQ so we have an enforceable commitment to do the work.

If this agreement contemplates the generation of funding for remedial work (for example, by dedication of a percentage of sale proceeds to cleanup), this section should include directions for the creation and administration of an escrow account or other means of dedicating funds to remedial work.]

A. [Measures to be Undertaken / Remedial Design/Remedial Action] [Describe RD/RA or plans for restoration or other productive reuse of the property]

[Party] will perform the [remedial design and remedial action / measures to be undertaken] for the Property in accordance with the terms and schedules set forth in the Scope of Work ("SOW") attached to and incorporated by reference into this Agreement as Exhibit B, and the terms and schedules set forth in a DEQ-approved work plan.

B. Modification of SOW or Related Work Plans

(1) If DEQ determines that modification to the work specified in the SOW and/or in work plans developed pursuant to the SOW is necessary in order to implement or maintain the effectiveness of the remedy described in Subsection 1.H., DEQ may require that such modification be incorporated in the SOW and/or such work plans; provided, any

such modification may be required pursuant to this paragraph only to the extent that the modification is consistent with the scope of the remedy [selected in the ROD / to protect public health and the environment].

- (2) Subject to dispute resolution under Subsection 4.K., [Party] will modify the SOW and/or work plans as required by DEQ and implement any work required by the modifications. Before invoking dispute resolution under Subsection 4.K., [Party] and DEQ will make a good-faith effort to resolve any dispute regarding DEQ-requested modifications by informal discussions for no more than 30 days following notice from DEQ of a requested modification.

C. Additional Measures

[Party] may elect at any time during the term of this Agreement to undertake measures, beyond those required under this Agreement and the SOW, necessary to address the release or threatened release of hazardous substances at the Property. Such additional measures are subject to prior approval by DEQ. DEQ's approval will be granted if DEQ determines that the additional measures are consistent with the remedy described in Subsection 1.H. and will not threaten human health or the environment.

D. Site Restrictions ***[if applicable]***

- (1) [Party] will record and abide by any use and/or deed restrictions on the Property required by the final remedy selected by DEQ for the property. Such restrictions may be required only as necessary to prevent exposure to contaminated soil, surface water, groundwater, or vapors, or to prevent exacerbation of existing contamination. ***[Add site-specific details about known or likely site restrictions here, including the nature of the E&ES and its recording status, include reference to E&ES and Exhibit C if applicable.]***
- (2) Property subject to the Easement and Equitable Servitude may be freely alienated at any time after recording, provided the deed or other instrument of conveyance refers to or incorporates the Easement and Equitable Servitude.
- (3) Any deed, title, or other instrument of conveyance regarding the Property must contain a notice that the Property is the subject of this Agreement. The seller, in any such deed or conveyance, must also reserve such access (by easement, right-of-way, or otherwise) as might be necessary to carry out its obligations under this Agreement.

(4) At least once every five years, DEQ will review the remedy to ensure that the Property remains protective of public health, safety, and welfare and the environment. Periodic reviews will include evaluation of monitoring data, progress reports, inspection and maintenance reports, land and water uses, compliance with institutional controls, and any other relevant information.

E. Property Activities

Any development, construction, or other use of the Property must be consistent with and may not interfere with investigative or remedial activities necessary at the Property. To ensure such consistency and prevent exacerbation of existing contamination at the Property, [Party] will ensure that all tenants, employees, authorized and regular users, and other occupants of the Property who perform activities on the Property that might affect the soils, groundwater, other contaminated media, or affect necessary investigatory and/or remedial measures, will: (1) notify DEQ before such activity; and (2) submit development and/or construction plans for review by DEQ. These requirements may expire upon the Property receiving a No Further Action determination from DEQ in accordance with Section 8.

4. GENERAL PROVISIONS

A. Project Managers

To the extent possible, all reports, notices, and other communications required under or relating to this Agreement must be directed to:

DEQ Project Manager:

[Project Manager's Name]
Department of Environmental Quality
[Eastern/Northwest/Western] Region
[Address]
[City, State Zip]
[Phone: ###-###-###, ext. ##]
[Email:]

[Party] Project Manager:

[Name]
[Department]
[Company]
[Address]
[City, State Zip]
[Phone: ###-###-###, ext. ##]
[Email:]

B. Supervising Contractor

(1) All aspects of the work to be performed by [Party] pursuant to this Agreement must be performed under the direction and supervision of a qualified employee or

contractor having experience in hazardous substance remediation and knowledge of applicable state and federal laws, regulations, and guidance.

- (2) Before initiation of remedial design work for the Property, [Party] will notify DEQ in writing of the name, title, and qualifications of any proposed supervising contractor. DEQ may for good cause disapprove the proposed contractor. In the event of such disapproval, DEQ will notify [Party] in writing of the reasons for its disapproval within 14 days of receipt of the initial notice from [Party]. [Party], within 14 days of receiving DEQ's notice of disapproval, will notify DEQ of the name, title, and qualifications of an alternate supervising contractor, subject to DEQ's right to disapprove under the terms and schedule specified above. ***If appropriate, continue with the following*** DEQ approves [Contractor Name] as a qualified contractor for [Party] for purposes of this Agreement.
- (3) If, during the course of work required under this Agreement, [Party] proposes to change its supervising contractor, [Party] will notify DEQ in accordance with the provisions of the preceding paragraph. DEQ may disapprove such contractor, under the terms and schedule specified in the preceding paragraph.

C. DEQ Approvals

- (1) Where DEQ approval is required for any plan or activity under this Agreement ***or SOW***, [Party] may not proceed to implement the plan or activity prior to DEQ approval. DEQ will make a reasonable effort to conduct its review promptly to prevent undue delays of any proposed development activity. Any DEQ delay in granting or denying approval correspondingly extends the time for completion by [Party]. Prior approval is not required in emergencies, provided [Party] notifies DEQ immediately after the emergency and evaluates the impact of its actions.
- (2) After review of any plan, report, or other item required to be submitted for DEQ approval under this Agreement, DEQ will: (a) approve the submission in whole or in part; or (b) disapprove the submission in whole or in part, and notify [Party] of its deficiencies and/or request modifications to cure the deficiencies.
- (3) DEQ approvals, rejections, or identification of deficiencies will be given in writing within the time specified in the SOW or as soon as practicable, and will state DEQ's reasons with reasonable specificity.

- (4) In the event of DEQ disapproval or request for modification of a submission, [Party] will, within 30 days of receipt of the DEQ notice or such longer time as may be specified in the notice, correct the deficiencies and resubmit the revised report or other item for approval.
- (5) In the event of two deficient submittals of the same deliverable that are deficient for the same reasons due to [Party's] failure in good faith to cure the original deficiency, DEQ may modify the submission to cure the deficiency.
- (6) In the event of approval or modification of a submission by DEQ, [Party] will implement the action(s) required by the plan, report, or other item, as so approved or modified, or invoke dispute resolution under Subsection 4.K.

D. Access to Property

- (1) [Party] will allow DEQ to enter all portions of the Site owned by or under the control of [Party] at all reasonable times for the purpose of overseeing [Party's] performance under this Agreement, including but not limited to inspecting records relating to work under this Agreement, observing [Party's] progress in implementing this Agreement, conducting such tests and taking such samples as DEQ deems necessary, verifying data submitted to DEQ by [Party], conducting periodic review, and using camera, sound recording, or other recording equipment. DEQ will make available to [Party], upon [Party's] request, any photographs or recorded or videotaped material taken.
- (2) [Party] will also seek to obtain access to property not owned or controlled by [Party] as necessary to perform the work required in this Agreement, including access by DEQ for purposes described in Paragraph 4.D.(1). DEQ may use its statutory authority to obtain access to property on behalf of [Party] if DEQ determines that access is necessary and that [Party] has exhausted all good faith efforts to obtain access.

E. Records

- (1) [Party] will preserve all records and documents in possession or control of [Party] or its employees, agents, or contractors that relate in any way to activities under this Agreement for at least five years after receiving a No Further Action determination from DEQ. Upon DEQ's request, [Party] will provide to DEQ, or make available for copying by DEQ, copies of non-privileged records.

- (2) [Party] will permit DEQ to inspect and copy all records, files, photographs, documents, and data relating to work under this Agreement, except that [Party] may not be required to permit DEQ inspection or copying of items subject to attorney-client or attorney work product privilege.
- (3) [Party] will identify to DEQ (by addressor-addressee, date, general subject matter, and distribution) any document, record, or item withheld from DEQ on the basis of attorney-client or attorney work product privilege, except to the extent that such identifying information is itself subject to a privilege. DEQ reserves its rights under law to obtain documents DEQ asserts are improperly withheld by [Party].

F. Notice and Samples

- (1) [Party] will make every reasonable effort to notify DEQ of any excavation, drilling, sampling, or other fieldwork to be conducted under this Agreement at least five working days before such activity, but in no event less than 24 hours before such activity. Upon DEQ's verbal request, [Party] will make every reasonable effort to provide a split or duplicate sample to DEQ or allow DEQ and/or its authorized representative to take a split or duplicate of any sample taken by [Party] while performing work under this Agreement. DEQ will provide [Party] with copies of all analytical data from such samples as soon as practicable.
- (2) In the event DEQ conducts any sampling or analysis in connection with this Agreement, DEQ will, except in an emergency, make every reasonable effort to notify [Party] of any excavation, drilling, sampling, or other fieldwork at least 72 hours before such activity. Upon [Party's] verbal request, DEQ will make every reasonable effort to provide a split or duplicate sample to [Party] or allow [Party] to take a split or duplicate of any sample taken by DEQ, and will provide [Party] with copies of all analytical data for such samples. [Party] will provide DEQ with copies of all analytical data from such samples as soon as practicable.

G. Quality Assurance

- (1) [Party] will conduct all sampling, sample transport, and sample analysis in accordance with the Quality Assurance/ Quality Control (QA/QC) provisions approved by DEQ as part of the work plan. All plans prepared and work conducted as part of this Agreement will be consistent with DEQ's *Environmental Cleanup Quality*

Assurance Policy (DEQ10-LQ-0063-QAG). [Party] will make every reasonable effort to ensure that each laboratory used by [Party] for analysis performs such analyses in accordance with such provisions.

- (2) If DEQ conducts sampling or analysis in connection with this Agreement, DEQ will conduct sampling, sample transport, and sample analysis in accordance with the QA/QC provisions of the approved work plan. Upon written request, DEQ will provide [Party] with copies of DEQ's records regarding such sampling, transport, and analysis.

H. Progress Reports

[Note: This section could be modified or deleted if a specific agreement does not require performance of remedial measures]

On a [quarterly/semi-annual] basis until completion of the activities described in this Agreement, [Party] will submit to DEQ one copy of a progress report describing its activities at the Property under this Agreement. DEQ anticipates that the progress report will not exceed two pages in length. The progress report must address, at a minimum, the following:

- (1) Activities undertaken by [Party] at the Property during the previous [quarter or six months];
- (2) Actions scheduled to be taken by [Party] in the next six months;
- (3) Sampling and test results and any other data generated by [Party] during the previous [quarter or six months]; and
- (4) A description of any problems experienced by [Party] during the previous [quarter/six months] and the actions taken to resolve them.

I. Reimbursement of DEQ Costs

- (1) DEQ will submit to [Party] a monthly invoice of costs by DEQ on or after [Date ~~or~~ the effective date of this Agreement] in connection with any activities related to the oversight and periodic review of [Party's] implementation of this Agreement. Each invoice will include a summary of costs billed to date.
- (2) DEQ oversight costs payable by [Party] include direct and indirect costs. Direct costs include site-specific expenses, DEQ contractor costs, and DEQ legal costs actually and reasonably incurred by DEQ under ORS465.200 *et seq.* DEQ's direct cost

- summary will include a Land Quality share direct labor summary showing the persons charging time, the number of hours, and the nature of work performed. Indirect costs include those general management and support costs of DEQ and of the Land Quality share allocable to DEQ oversight of this Agreement and not charged as direct, site-specific costs. Indirect charges are based on actual costs and applied as a percentage of direct personal services costs. DEQ will maintain work logs, payroll records, receipts, and other documents to document work performed and expenses incurred under this Agreement consistent with DEQ's records retention schedule and, upon request, will provide copies of such records to [Party].
- (3) Within 30 days of receipt of DEQ's invoice, [Party] will pay the amount of costs billed by check payable to the "State of Oregon, Hazardous Substance Remedial Action Fund," or invoke dispute resolution under Subsection 4.K. After 30 days, any unpaid amounts that are not the subject of pending dispute resolution, or that have been determined owing after dispute resolution, will become a liquidated debt collectible under ORS 293.250 or other applicable law.
- (4) [Party] will pay simple interest of 9% per annum on the unpaid balance of any DEQ oversight costs, which interest will begin to accrue at the end of the 30-day payment period, unless dispute resolution has been invoked. Interest on any amount disputed under Subsection 4.K. will begin to accrue 30 days from final resolution of any such dispute.

J. Force Majeure

- (1) If any event occurs that is beyond [Party's] reasonable control and that causes or might cause a delay or deviation in performance of the requirements of this Agreement despite [Party's] reasonable efforts ("Force Majeure"), [Party] will promptly, upon learning of the event, notify DEQ's Project Manager verbally of the cause of the delay or deviation, its anticipated duration, the measures that have been or will be taken to prevent or minimize the delay or deviation, and the timetable by which [Party] proposes to carry out such measures. [Party] will confirm in writing this information within five working days of the verbal notification. Failure to comply with these notice requirements precludes [Party] from asserting Force Majeure for the event and for any additional delay caused by the event.

(2) If [Party] demonstrates to DEQ's satisfaction that the delay or deviation has been or will be caused by Force Majeure, DEQ will extend times for performance of related activities under this Agreement as appropriate. Circumstances or events constituting Force Majeure might include but not be limited to acts of God, unforeseen strikes or work stoppages, unanticipated site conditions, fire, explosion, riot, sabotage, war, and delays in receiving a governmental approval or permit. Normal inclement weather, increased cost of performance or changed business or economic circumstances may not be considered Force Majeure.

K. Dispute Resolution

- (1) Except as provided in Paragraph 4.K.(4), if [Party] disagrees with DEQ regarding any matter relating to this Agreement, [Party] will promptly notify DEQ in writing of its objection. DEQ and [Party] then will make a good-faith effort to resolve the disagreement within 14 days of [Party's] written objection. At the end of the 14-day period, DEQ will provide [Party] with a written statement of its position from DEQ's [Eastern/Northwest/Western] Region Cleanup Program Manager. If [Party] still disagrees with DEQ's position, then [Party], within 14 days of receipt of DEQ's position from the Region Cleanup Manager, will provide [Party's] position and rationale in writing to DEQ's [Eastern/Northwest/Western] Region Administrator. The Region Administrator may discuss the disputed matter with [Party] and, in any event, will provide [Party] with DEQ's final position in writing as soon as practicable after receipt of [Party's] written position.
- (2) If [Party] refuses or fails to follow DEQ's final position pursuant to Paragraph 4.K.(1), and DEQ seeks to enforce its final position, the Parties, subject to Section 6, are entitled to such rights, remedies, and defenses as are provided by applicable law.
- (3) During the pendency of any dispute resolution under this subsection, the time for completion of work or obligations affected by such dispute is extended for a period of time not to exceed the actual time taken to resolve the dispute. Elements of work or obligations not affected by the dispute must be completed in accordance with the applicable schedule.

(4) DEQ approval or modification of the work plan required under the SOW is not subject to dispute resolution under this Subsection, but is otherwise subject to the provisions of Subsection 4.C.

L. Effect of Agreement

(1) In the event of any failure of the [Party] to comply with any obligation of this Agreement, DEQ may enforce this Agreement under ORS 465.260 and 465.900 or exercise any authority or pursue any claim or cause of action that DEQ might have.

[Party] reserves any defenses or counterclaims it might have in the event of such action by DEQ.

(2) Except as provided in Section 6, DEQ and [Party] reserve any claim or cause of action they respectively have as to any person or entity not a signatory to this Agreement.

(3) [Party] does not admit any liability or violation of law by virtue of entering this Agreement.

(4) DEQ reserves its authority to perform remedial measures regarding a release of hazardous substances at or from the Property.

(5) This Agreement is effective upon the latter signature of a party (“Effective Date”), provided this Agreement is void and of no effect if [Party] does not complete acquisition of ownership or operation of the Property by [Date]. [If applicable for development: in the case where redevelopment is a substantial public benefit, include date by which benchmark activity(ies) will occur; if such activities do not occur this Agreement is void and of no effect unless [Party] requests a modification.]

(6) DEQ and [Party] intend for this Agreement to be construed as an administrative settlement by which [Party] has resolved its liability to the State of Oregon, within the meaning of Section 113(f)(2) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9613(f)(2), regarding matters addressed by this Agreement, and for [Party] not to be liable for claims for contribution regarding matters addressed to the extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. §§ 9613(f)(2).

M. Indemnification

[Party] will indemnify and hold harmless the State of Oregon and its commissions, agencies, officers, employees, contractors, and agents from and against any and all claims arising from acts or omissions related to this Agreement of [Party] or its officers, employees, contractors, agents, receivers, trustees, or assigns. DEQ may not be considered a party to any contract made by [Party] or its agents in carrying out activities under this Agreement.

N. Public Notice

Upon execution of this Agreement, DEQ will provide public notice of this Agreement in a local newspaper of general circulation, describing the measures to be undertaken under this Agreement. Copies of the Agreement will be made available to the public. DEQ will provide [Party] a draft of such notice and consider any comments by [Party] on the draft notice before publication. [Party] is responsible for the publication costs, if any, of such notice per Subsection 4.I.

O. Parties Bound

This Agreement is binding on the signatories and their respective commissions, agencies, officers, assigns, successors, employees, contractors, agents, and authorized representatives. The undersigned representative of each party certifies that he or she is fully authorized to execute and bind such party to this Agreement.

P. Modification

This Agreement may be modified only by written agreement of DEQ and [Party].

Q. Recording

Within 30 days of [Party]'s acquisition of property, [Party] will submit a copy or original of this Agreement (whichever is required by the county) to be recorded in the real property records of [County Name] County, State of Oregon. [Party] must provide DEQ with written evidence of such recording within seven days of recording.

R. Transfer of Interest

[Party] will provide written notice to the DEQ project manager within 10 days after the transfer of any interest in the Property, or any portion of the Property, from [Party] to another person or entity.

5. RELEASE FROM LIABILITY

- A. Pursuant to ORS 465.327, and subject to Subsection 5.B. and the satisfactory performance by [Party] of its obligations under this Agreement, [Party] is not liable to the State of Oregon under ORS 465.200 to 465.545 and 465.900, 466.640, or 468B.310 regarding Existing Hazardous Substance Releases. [Party] bears the burden of proving by a preponderance of the evidence that a hazardous substance release (for all hazardous substances, hazardous materials, and oils described in Subsection 2.B.) existed as of the date of [Party's] acquisition of ownership or operation of the Property.
- B. The release from liability under Subsection 5.A does not affect liability of [Party] for claims arising from:
- (1) A release of hazardous substances, spill or release of oil or hazardous material, or entry of oil into the waters of the state at or from the Property on or after the date of [Party's] acquisition of ownership or operation of the Property;
 - (2) Contribution to or exacerbation, on or after the date of [Party's] acquisition of ownership or operation of the Property, of a release of hazardous substance, spill or release of oil or hazardous material, or entry of oil into the waters of the state at or from the Property;
 - (3) Interference or failure to cooperate, on or after the date of [Party's] acquisition of ownership or operation of the Property, with DEQ or other persons conducting remedial measures under DEQ's oversight at the Property;
 - (4) Failure to exercise due care or take reasonable precautions, on or after the date of [Party's] acquisition of ownership or operation of the Property, with respect to any hazardous substance at the Property;
 - (5) Disposal or management of hazardous substances or solid waste removed from the Property by or on behalf of [Party];
 - (6) Criminal liability;
 - (7) Violation of federal, state, or local law on or after the date of [Party's] acquisition of ownership or operation of the Property;
 - (8) Any matters as to which the State of Oregon is owed indemnification under Subsection 4.M.; and
 - (9) Claims based on any failure by [Party] to meet any requirements of this Agreement.

6. WAIVERS

- A. [Party] waives any claim or cause of action it might have against the State of Oregon regarding Existing Hazardous Substance Releases; provided, [Party] reserves all rights concerning the obligations of DEQ under this Agreement.
- B. [Party] waives any right it might have under ORS 465.260(7) to seek reimbursement from the Hazardous Substance Remedial Action Fund or the Orphan Site Account for cost incurred under this Agreement or related to the Property.

7. BENEFITS AND BURDENS RUN WITH THE LAND

The benefits and burdens of this Agreement run with the land; however, the release from liability set forth in Section 5 limits or otherwise affects the liability only of persons who: (1) are not potentially liable under ORS 465.255, 466.640, or 468B.310 for a release of hazardous substances at the Property as of the date of that person's acquisition of ownership or operation of the Property; and (2) assume and are bound by the terms of this Agreement applicable to the Property as of the date of their acquisition of ownership or operation of the Property.

8. COMPLETION OF WORK

Upon satisfactory completion of measures to be undertaken under Section 3, DEQ will issue a No Further Action determination for the Property, conditioned as appropriate to reflect [Party's] remaining obligations under this Agreement or to ensure long-term effectiveness of the remedy.

9. SIGNATURES

_____ Date: _____
[Name of 2nd Party Signor], [Title]
[Party]

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____, 20____, by [Name] of [Company], on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____

_____ Date: _____
[Administrator Name], Administrator
Land Quality Division
Oregon Department of Environmental Quality

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this _____ day of _____, 20____, by _____ of the Oregon Department of Environmental Quality, on its behalf.

NOTARY PUBLIC FOR OREGON
My commission expires: _____