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INSTITUTIONAL CONTROLS AGREEMENT

BY, BETWEEN AND AMONG

ANACONDA-DEERLODGE COUNTY,

OLD WORKS GOLF COURSE, INC.

AND

ATLANTIC RICHFIELD COMPANY

Effective _____

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Exhibit 2	Institutional Controls Implementation and Assurance Plan
Exhibit 3	Institutional Controls Program Annual Performance Evaluation Report Form
Exhibit 4	Institutional Controls Program Initial Budget
Exhibit 5	ADLC Parcels Superfund O&M Plan
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Exhibit 7	ADLC Parcels Superfund O&M Initial Budget
Exhibit 8	Golf Course Superfund O&M Plan
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Exhibit 12	Certificate of Survey
Exhibit 13	Conveyance Agreement Parcels Re-conveyance Quitclaim Deeds
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Exhibit 24	C-Hill Parcel Conveyance Quitclaim Deed
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Exhibit 26	Third Party Quitclaim Deed
Exhibit 27	Community Enhancement Deferral/Early Disbursement Request Form
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INSTITUTIONAL CONTROLS AGREEMENT

THIS INSTITUTIONAL CONTROLS AGREEMENT (as hereinafter defined, "Agreement"), is entered into by, between and among Anaconda-Deer Lodge County (as hereinafter defined, "ADLC"), Old Works Golf Course, Inc. (as hereinafter defined, " Golf Course Authority"), and Atlantic Richfield Company (as hereinafter defined, "AR") as of the Effective Date (hereinafter defined) to set forth agreements relating to the Anaconda Smelter NPL Site (as hereinafter defined, the "Site").

W I T N E S S E T H:

WHEREAS, commencing in 1982, the United States Environmental Protection Agency (as hereinafter defined, "EPA") and the Montana Department of Health and Environmental Sciences initiated certain actions pursuant to Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et seq., as amended (as hereinafter defined, "CERCLA"), to address contamination at, on or under certain areas within Anaconda-Deer Lodge County in southwestern Montana associated with historic mining and smelting activities in the area; and

WHEREAS, in September 1983, EPA placed the Site, an area comprising approximately 300 square miles near Anaconda, Montana, on the National Priorities List, set forth at 40 CFR part 300, Exhibit B, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605; and

WHEREAS, the Site is located in Deer Lodge County, Montana and includes, without limitation, the towns of Anaconda, Opportunity, Galen, Warm Springs and Crackerville, Montana; and

WHEREAS, AR is a potentially responsible party with respect to the Site; and

WHEREAS, AR has conducted, is now conducting, and will hereafter conduct, Response Actions (hereinafter defined) on certain property within the Site; and

WHEREAS, in prior agreements, ADLC and Golf Course Authority have agreed to, among other things, (i) implement certain institutional controls within the Site, (ii) accept AR's conveyance of certain properties within the Site, and (iii) conduct certain Superfund O&M Activities (hereinafter defined) with respect to the properties conveyed by AR; and

WHEREAS, in consideration of the funds to be provided by AR to ADLC pursuant to the terms and conditions of this Agreement, ADLC, Golf Course Authority and AR desire to (i) modify and clarify the duties and obligations of ADLC for implementation of institutional controls within the Site, (ii) modify and clarify the duties and obligations of ADLC and Golf Course Authority for implementation and performance of the Superfund O&M Activities required for the conveyed parcels, and (iii) have the United States and State, through an amendment to the CNSA (hereinafter defined), adopt certain updated institutional controls for

the Site and provide oversight of ADLC's implementation of such institutional controls; and (iv) provide for certain other agreements among the Parties.

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement, the sufficiency of which is acknowledged, it is hereby understood and agreed as follows:

ARTICLE I.

DEFINITIONS

Section 1.1. Definitions. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Agreement or in the exhibits attached hereto and incorporated hereunder, the following definitions shall apply:

1. "**ACC**" shall mean the Anaconda Country Club, a Montana public benefit corporation with members.

2. "**ADLC**" shall mean the local government of Anaconda-Deer Lodge County, Montana, and any successors thereto, including all officers, employees, agents, representatives, boards, departments, commissions, programs and authorities thereof.

3. "**ADLC Default**" shall, for purposes of Section 14.4 hereof, mean a failure by ADLC to perform any Golf Course Superfund O&M Obligation and/or any Golf Course O&M Obligation for a period of one (1) year or more after AR's transmittal of written notice to ADLC that identifies such failure and requests that the failure be remedied, unless AR shall agree in writing to a longer period of time to remedy the failure to perform. In the event the failure stated in the notice cannot be remedied within the one (1) year period, such period shall be extended in the event remedial action is instituted by ADLC within the one (1) year period and diligently pursued until the ADLC Default is corrected.

For all provisions other than Section 14.4, the term "ADLC Default" shall mean a failure by ADLC to perform any duty or obligation of ADLC under this Agreement for a period of thirty (30) days or more after AR's transmittal of written notice to ADLC that identifies such failure and requests that the failure be remedied, unless AR shall agree in writing to a longer period of time to remedy the failure to perform. In the event the failure stated in the notice cannot be remedied within the thirty (30) day period, such period shall be extended in the event remedial action is instituted by ADLC within the thirty (30) day period and diligently pursued until the ADLC Default is remedied.

4. "**ADLC Certificate of Insurance**" shall mean the Certificate of Insurance Coverage attached as Exhibit 28 hereto and any such subsequent certificate of insurance of ADLC.

5. "**ADLC ICMS Plan**" shall mean Anaconda-Deer Lodge County's Institutional Controls Management System Plan attached to the ICIAP as Appendix F and any amendments thereto agreed to by AR, ADLC, EPA and the State

6. "**ADLC Parcels**" shall mean each of the parcels of real property identified on Figure 1 to the ADLC Parcels Superfund O&M Plan.

7. "**ADLC Parcels Superfund O&M Accounting Report**" shall mean an annual accounting report, in a form acceptable to ADLC and AR, of all ADLC Parcels Superfund O&M Costs incurred by ADLC for the implementation and performance of ADLC Parcels Superfund O&M Obligations during the prior Fiscal Year. The term shall include a budget reconciliation report which, separately for each budget amount set forth in the approved ADLC Parcels Superfund O&M Budget then in effect, compares the total amount actually incurred by ADLC with the total budgeted amount, and any amounts carried forward by ADLC to the next Fiscal Year.

8. "**ADLC Parcels Superfund O&M Annual Performance Evaluation Report**" shall mean the form of performance evaluation report to be prepared annually by EPA pursuant to the terms of Section 7.2 hereof, the form of which is attached hereto as Exhibit 6 hereto.

9. "**ADLC Parcels Superfund O&M Annual Report**" shall mean an annual report to be prepared by ADLC, in a form acceptable to ADLC and AR, which summarizes all activities undertaken by ADLC with respect to the ADLC Parcels Superfund O&M Program Obligations during the prior Fiscal Year. Each annual report shall, at a minimum, include all information required pursuant to Section ___ of the ADLC Parcels Superfund O&M Plan.

10. "**ADLC Parcels Superfund O&M Budget**" shall mean a budget, in the form of the ADLC Parcels Superfund O&M Initial Budget, which sets forth all reasonably anticipated ADLC Parcels Superfund O&M Costs that ADLC may incur during the next Fiscal Year for the implementation and performance of the ADLC Parcels Superfund O&M Obligations, and which sets forth the amount ADLC may request AR to pay to ADLC for the next Fiscal Year for the implementation and performance of ADLC Parcels Superfund O&M Obligations.

11. "**ADLC Parcels Superfund O&M Costs**" shall mean the charges, expenses, fees and other costs reasonably incurred by ADLC to perform the ADLC Parcels Superfund O&M Obligations.

12. "**ADLC Parcels Superfund O&M Cost Savings**" shall mean all funds provided by AR to ADLC for a Fiscal Year pursuant to Section 9.2 hereof which are not expended by ADLC during that Fiscal Year for the payment of ADLC Parcels Superfund O&M Costs for reasons other than: (i) a Force Majeure event; (ii) a failure by ADLC to complete a task for which funds were provided in that Fiscal Year; or (iii) any other failure by ADLC to perform any ADLC Parcels Superfund O&M Obligations during that Fiscal Year for any reason.

13. "**ADLC Parcels Superfund O&M Initial Budget**" shall mean the ADLC Parcels Superfund O&M Budget attached as Exhibit 7 hereto.

14. "**ADLC Parcels Superfund O&M Obligations**" shall mean the obligations that ADLC is required to implement and perform pursuant to Sections 4.1 and 4.2 hereof. The term shall not include any obligations that AR is required to perform with respect to ADLC Parcels Superfund Remedial Structures pursuant to Section 4.2 hereof.

15. "**ADLC Parcels Superfund O&M Plan**" shall mean the Anaconda-Deer Lodge County Owned Properties Inspection and Maintenance (I&M) Plan attached as Exhibit 5 hereto and any amendments thereto agreed to by AR, ADLC, EPA and the State.

16. "**ADLC Parcels Superfund O&M Trust Account**" shall mean a segregated and separate account of ADLC, with a financial institution acceptable to ADLC and AR, that is established pursuant to Section 9.1 hereof.

17. "**ADLC Parcels Superfund Remedial Structures**" shall mean all vegetative covers, engineered storm water controls and access controls which are now or which may hereafter be located on the ADLC Parcels pursuant to the requirements of the RODs.

18. "**AERL**" shall mean ARCO Environmental Remediation, L.L.C., a Delaware limited liability company, together with all of its predecessors, successors (merged, acquired or otherwise), subsidiaries and assigns.

19. "**Agreement**" shall mean this Institutional Controls Agreement and all Exhibits attached hereto.

20. "**Annual Performance Evaluation Meeting**" shall mean an annual meeting attended by representatives of AR, ADLC, Golf Course Authority, EPA and the State for the purpose of reviewing and evaluating the performance of the Institutional Controls Program Obligations and the ADLC Parcels Superfund O&M Obligations by ADLC during the prior Fiscal Year and the performance of the Golf Course Superfund O&M Obligations by ADLC and Golf Course Authority during the prior Fiscal Year.

21. "**Annual Performance Evaluation Reports**" shall mean, collectively, the annual reports to be prepared by EPA which are an Institutional Controls Program Annual Performance Evaluation Report, an ADLC Parcels Superfund O&M Annual Performance Evaluation Report and a Golf Course Superfund O&M Annual Performance Evaluation Report.

22. "**AR"** shall mean Atlantic Richfield Company, a Delaware corporation, together with all of its predecessors, successors (merged, acquired or otherwise), subsidiaries and assigns, including, but not limited to, it's affiliate AERL.

23. "**AR Default**" shall mean a failure by AR to perform any duty or obligation of AR under this Agreement for a period of ninety (90) days or more after ADLC's and/or Golf Course Authority's transmittal of written notice to AR that identifies such failure and requests

that the failure be remedied, unless the notifying Party shall agree in writing to a longer period of time to remedy the failure to perform. In the event the failure stated in the notice cannot be remedied within the ninety (90) day period, such period shall be extended in the event remedial action is instituted by AR within the ninety (90) day period and diligently pursued until the AR Default is remedied.

24. "**AR ICMS Plan**" shall mean Atlantic Richfield's Institutional Controls Management System Plan attached to the ICIAP as Appendix E and any amendments thereto agreed to by AR, ADLC, EPA and the State.

25. "**ARARs"** shall mean all Applicable and Relevant and Appropriate Requirements identified by EPA with respect to the Site pursuant to Section 121 of CERCLA, 42 U.S.C. 9621.

26. "**Assistance MOU**" shall mean that certain Memorandum of Understanding between AR and ADLC dated October 1, 2012, as amended by that certain First Extension Agreement dated July 1, 2013, that certain Second Extension Agreement dated January 31, 2014 and that certain Third extension Agreement dated July 1, 2014.

27. "**Ball Fields/Industrial Park Original Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Ball Fields/Industrial Park Original Parcel Quitclaim Deed.

28. "**Ball Fields/Industrial Park Original Parcel Quitclaim Deed**" shall mean that certain Quitclaim Deed dated May 5, 1994, and recorded on June 16, 1994, at Book 96, Page 936 in the real property records of ADLC.

29. "**CECRA"** shall mean the Montana Comprehensive Environmental Cleanup and Responsibility Act, §75-10-701 et seq., MCA, and any amendments thereto.

30. "**CERCLA**" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et seq., and any amendments thereto.

31. "**Certificate of Survey**" shall mean the Certificate of Survey attached as Exhibit 12 hereto.

32. "**C-Hill Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the C-Hill Parcel Conveyance Quitclaim deed and C-Hill Parcel Re-conveyance Quitclaim Deed.

33. "**C-Hill Parcel Conveyance Quitclaim Deed"** shall mean the form of Quitclaim Deed attached as Exhibit 24 hereto.

34. "**C-Hill Parcel Re-conveyance Quitclaim Deed"** shall mean the form of Quitclaim Deed attached as Exhibit 25 hereto.

35. "**CNSA**" shall mean the Agreement and Covenant Not to Sue between ADLC, Golf Course Authority, EPA and the State dated May 12, 1994 and any amendments thereto agreed to by ADLC, Golf Course Authority, EPA and the State.

36. "**Community Enhancement Accounting Report**" shall mean an annual accounting report, in a form acceptable to ADLC and AR, of all amounts withdrawn by ADLC from the Community Enhancement Trust Account during the prior Fiscal Year.

37. "**Community Enhancement Deferral/Early Disbursement Request**" shall mean a request from ADLC to AR for the disbursement of funds from AR to ADLC for deposit into the Community Enhancement Trust Account utilizing the Community Enhancement Deferral/Early Disbursement Request form attached as Exhibit 27 hereto.

38. "**Community Enhancement Incentive Payment Schedule**" shall mean the Community Enhancement Incentive Payment Schedule attached as Exhibit 30 hereto.

39. "**Community Enhancement Program**" shall mean the program to be developed by ADLC with the funds provided by AR pursuant to Section 11.2.4 hereof for the purpose of promoting and facilitating the community enhancements contemplated under Sections 11.3.1, 11.3.2 and 11.3.3 hereof.

40. "**Community Enhancement Trust Account**" shall mean a segregated and separate account of ADLC, with a financial institution acceptable to ADLC and AR, that is established pursuant to Section 11.1 hereof.

41. "**Consent Decree**" shall mean the consent decree described in Section 16.3 hereof.

42. "**Conveyance Agreement**" shall mean that certain Real Property Conveyance/Transfer Agreement between the Parties dated May 5, 1994. The term shall not include the Golf Course Loan Agreement.

43. "**Conveyance Agreement Amended Parcels**" shall mean the Drag Strip Amended Parcel, the East Anaconda Yards Amended Parcel, the Golf Course Amended Parcel, the Hotel Amended Parcel, the Mill Creek Amended Parcel, the Old Works Historic Trail Amended Parcel, the Red Sands/Arbiter Amended Parcel, and the Stucky Ridge Amended Parcel.

44. "**Conveyance Agreement Amended Parcels Quitclaim Deeds**" shall mean the Drag Strip Amended Parcel Quitclaim Deed, the East Anaconda Yards Amended Parcel Quitclaim Deed, the Golf Course Amended Parcel Quitclaim Deed, the Hotel Amended Parcel Quitclaim Deed, the Mill Creek Amended Parcel Quitclaim Deed, the Old Works Historic Trail Amended Parcel Quitclaim Deed, the Red Sands/Arbiter Amended Parcel Quitclaim Deed, and the Stucky Ridge Amended Parcel Quitclaim Deed.

45. "**Conveyance Agreement Original Parcels**" shall mean the Ball Fields/Industrial Park Original Parcel, the Drag Strip Original Parcel, the East Anaconda Yards Original Parcel, the Golf Course Original Parcel, the Lumber Yard Original Parcel, the Mill Creek Original Parcel, the Old Works Historic Trail Original Parcel, the Red Sands/Arbiter Original Parcel, and the Stucky Ridge Original Parcel.

46. "**Conveyance Agreement Original Parcels Quitclaim Deeds**" shall mean the Ball Fields/Industrial Park Original Parcel Quitclaim Deed, the Drag Strip Original Parcel Quitclaim Deed, the East Anaconda Yards Original Parcel Quitclaim Deed, the Golf Course Original Parcel Quitclaim Deed, the Lumber Yard Original Parcel Quitclaim Deed, the Mill Creek Original Parcel Quitclaim Deed, the Old Works Historic Trail Original Parcel Quitclaim Deed, the Red Sands/Arbiter Original Parcel Quitclaim Deed, and the Stucky Ridge Original Parcel Quitclaim Deed.

47. "**Conveyance Agreement Parcels Access Agreement**" shall mean that certain Access Agreement dated May 5, 1994, and recorded on May 5, 1994, at Book 96, Page 146 in the real property records of ADLC, a copy of which is attached as Exhibit 14 hereto.

48. "**Conveyance Agreement Parcels Re-conveyance Quitclaim Deeds**" shall mean each of the Quitclaim deeds attached as Exhibit 13 hereto.

49. "**Country Club**" shall mean the nine (9) hole golf course located in Sections ___ and ___ of Township 4 North, Range 9 West.

50. "**Covenant Deeds**" shall mean the Conveyance Agreement Original Parcels Quitclaim Deeds, the Conveyance Agreement Amended Parcels Quitclaim Deeds, and the C-Hill Parcel Re-conveyance Quitclaim Deed.

51_. "**Covenant Parcels**" shall mean the parcels of real property within the Site which are categorized by AR as covenant parcels in the ICMS.

52. "**Cow and Horse Pastures**" shall mean the real property owned by AERL within the pastures depicted on the map attached as Exhibit 31 hereto as the "Cow Pasture" and the "Horse Pasture" which are located in Sections ___ and ___ of Township 4 North, Range 9 West.

53. "**CPI**" shall mean the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics for All Urban Consumers (CPI-U), U.S. City Average, all items not seasonally adjusted, 1982-1984 = 100 reference base.

54. "**CPI Adjustment Figure**" shall mean the most current CPI monthly index figure published thirty (30) days prior to the due date for a payment.

55. "**CPI Base Figure**" shall mean the CPI index figure published for the month of June of 2016.

56. "**CPMP Plan**" shall mean the Community Protective Measures Program Plan attached to the ICIAP as Appendix D and any amendments thereto agreed to by AR, ADLC, EPA and the State.

57. "**Default**" shall mean an AR Default, an ADLC Default and/or a Golf Course Authority Default, as applicable.

58. "**Development Repository**" shall mean the area depicted in Appendix __ of the Development Repository O&M Plan and any additions thereto or expansions thereof.

59. "**Development Repository O&M Plan**" shall mean the Anaconda Smelter Development Repository Operation and Management (O&M) Plan attached as Exhibit 11 hereto and any amendments thereto agreed to by AR, ADLC, EPA and the State.

60. "**DPS Ordinance**" shall mean ADLC's Development Permit System attached to the ICIAP as Appendix A. The term shall include the DPS Ordinance Amendments following adoption pursuant to Section 3.1 hereof and any additional amendments adopted pursuant to Section 3.1 hereof.

61. "**DPS Ordinance Amendments**" shall mean the Amendments to the DPS Ordinance attached to the ICIAP as Appendix K.

62. "**Drag Strip Amended Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Drag Strip Amended Parcel Quitclaim Deed.

63. "**Drag Strip Amended Parcel Quitclaim Deed**" shall mean the form of Quitclaim Deed attached as Exhibit 15 hereto.

64. "**Drag Strip Original Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Drag Strip Original Parcel Quitclaim Deed.

65. "**Drag Strip Original Parcel Quitclaim Deed**" shall mean that certain Quitclaim Deed dated May 5, 1994 and recorded on May 5, 1994, at Book 96, Page 167 in the real property records of ADLC.

66. "**East Anaconda Yards Amended Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the East Anaconda Yards Amended Parcel Quitclaim Deed.

67. "**East Anaconda Yards Amended Parcel Quitclaim Deed**" shall mean the form of Quitclaim Deed attached as Exhibit 16 hereto.

68. "**East Anaconda Yards Original Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the East Anaconda Yards Original Parcel Quitclaim Deed.

69. "**East Anaconda Yards Original Parcel Quitclaim Deed**" shall mean that certain Quitclaim Deed dated May 5, 1994, and recorded on May 5, 1994, at Book 96, Page 246 in the real property records of ADLC.

70. "**Effective Date**" shall mean the date on which this Agreement is fully executed by all Parties.

71. "**Environmental Conditions**" shall mean and include, without limitation, any condition, circumstance, quality, quantity or other state of the land, subsurface, strata, air, surface water, groundwater, fish, wildlife, or biota arising out of, related to or resulting from the Release or threatened Release, generation, transport, handling, treatment, storage, disposal, management, presence of or exposure to any Mine Waste.

72. "**Environmental Laws**" shall mean any past, present or future federal, state or local laws, regulations, ordinances, permits, approvals or authorizations pertaining to natural resources, Environmental Conditions, protection of human health, welfare or the environment or historic, archeological or cultural preservation, including, without limitation, CERCLA; the Clean Air Act (42 U.S.C. §§ 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.); the Safe Drinking Water Act (42 U.S.C. §§ 300(f) et seq.); the National Historic Preservation Act (16 U.S.C. § 470); CECRA; the Montana Water Quality Act (M.C.A. §§ 75-5-101 et seq.); the Clean Air Act of Montana (M.C.A. §§ 75-2-101 et seq.); the Natural Streambed and Land Preservation Act (M.C.A. §§ 75-7-101 et seq.); the Montana Hard Rock Mining Act (M.C.A. §§ 82-4-300 et seq.); and the Montana Floodplain and Floodway Management Act (M.C.A. §§ 76-5-101 et seq.); all as amended and as may change from time to time; and any provisions or theories of common law providing for any cause of action remedy or right of recovery with respect to, arising from or related to Environmental Conditions, as any such provisions or theories may change from time to time.

73. "**EPA**" shall mean the United States Environmental Protection Agency and any successor agency thereto.

74. "**Fiscal Year**" shall mean an initial period commencing on the Effective Date and ending on June 30, 2017. Thereafter, the term shall mean a twelve (12) month period commencing on July 1 and ending on June 30.

75. "**Five Year Review Period**" shall mean the five year period evaluated within each Five Year Review Report.

76. "**Five Year Review Report**" shall mean the report prepared by EPA for the Site after the end of each Five Year Review Period pursuant to Section 121(c) of CERCLA, 42 U.S.C. § 9621(c) to assure that human health and the environment are being protected by the implemented Response Actions.

77. "**Force Majeure**" shall mean any event arising from causes beyond the control of the Parties, of any entity controlled by the Parties, or of the Parties' contractors, which delays or

prevents the performance of any obligation under this Agreement despite the Parties' best efforts to fulfill the obligation. The requirement that the Parties exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential Force Majeure event and best efforts to address the effects of any potential Force Majeure event (i) as it is occurring and (ii) after the potential Force Majeure event, such that the delay is minimized to the greatest extent possible. Any event that constitutes a Force Majeure event as defined in any order, decree or directive issued in connection with Environmental Laws shall also constitute a Force Majeure event for purposes of this Agreement, provided, however, that Force Majeure does not include a Party's inability to complete its obligations under this Agreement due to its financial condition or insufficient human resources.

78. "**Golf Course**" shall mean the golf course, clubhouse, parking lot and all related improvements constructed on the Golf Course Amended Parcel.

79. "**Golf Course Accounting Report**" shall mean an annual accounting report, in a form acceptable to ADLC and AR, of all amounts withdrawn by ADLC from the Golf Course Trust Account during the prior Fiscal Year.

80. "**Golf Course Amended Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Golf Course Amended Parcel Quitclaim Deed.

81. "**Golf Course Amended Parcel Quitclaim Deed**" shall mean the form of Quitclaim Deed attached as Exhibit 17 hereto.

82. "**Golf Course Authority**" shall mean Old Works Golf Course, Inc., a Montana non-profit corporation, created by ADLC pursuant to the Golf Course Authority Ordinance together with all of its predecessors, successors (merged, acquired or otherwise), subsidiaries and assigns.

83. "**Golf Course Authority Certificate of Insurance**" shall mean the Certificate of Insurance Coverage attached as Exhibit 29 hereto and any such subsequent certificate of insurance of Golf Course Authority.

84. "**Golf Course Authority Default**" shall, for purposes of Section 14.4 hereof, mean a failure by Golf Course Authority to perform any Golf Course Superfund O&M Obligation and/or any Golf Course O&M Obligation for a period of one (1) year or more after AR's transmittal of written notice to Golf Course Authority that identifies such failure and requests that the failure be remedied, unless AR shall agree in writing to a longer period of time to remedy the failure to perform. In the event the failure stated in the notice cannot be remedied within the one (1) year period, such period shall be extended in the event remedial action is instituted by Golf Course Authority within the one (1) year period and diligently pursued until the Golf Course Authority Default is remedied.

For all provisions other than Section 14.4, the term "Golf Course Authority Default" shall mean a failure by Golf Course Authority to perform any duty or obligation of Golf Course Authority under this Agreement for a period of thirty (30) days or more after AR's transmittal of

written notice to Golf Course Authority that identifies such failure and requests that the failure be remedied, unless AR shall agree in writing to a longer period of time to remedy the failure to perform. In the event the failure stated in the notice cannot be remedied within the thirty (30) day period, such period shall be extended in the event remedial action is instituted by Golf Course Authority within the thirty (30) day period and diligently pursued until the Golf Course Authority Default is remedied.

85. "**Golf Course Authority Ordinance**" shall mean ADLC's Ordinance No. 126 and any amendments thereto adopted pursuant to Section 5.3 hereof.

86. "**Golf Course Business Plan**" shall mean the Old Works Golf Club Strategic Business Plan dated July 2015 attached as Exhibit 9 hereto and any amendments thereto agreed to by the Parties.

87. "**Golf Course Capital Improvement Plan**" shall mean the Capital Improvement Plan attached as Appendix B to the Golf Course Business Plan and any amendments thereto agreed to by the Parties.

88. "**Golf Course Costs**" shall mean the charges, expenses, fees and other costs reasonably incurred by ADLC and/or Golf Course Authority to perform the Golf Course Superfund O&M Obligations and the Golf Course O&M Obligations.

89. "**Golf Course Loan Agreement**" shall mean that certain Addendum to Real Property Conveyance/Transfer Agreement between AR, ADLC and Golf Course Authority dated May 31, 2012, as amended by that certain Second Addendum to Real Property Conveyance/Transfer Agreement between AR, ADLC and Golf Course Authority dated May 6, 2014, that certain Third Addendum to Real Property Conveyance/Transfer Agreement between AR, ADLC and Golf Course Authority dated December 16, 2014 and that certain Fourth Addendum to Real Property Conveyance/Transfer Agreement between AR, ADLC and Golf Course Authority dated July 5, 2016.

90. "**Golf Course O&M Activities"** shall mean all activities of any kind or nature whatsoever which may be required to operate, manage and maintain the Golf Course as a first class golf course facility and in a manner that ensures its continued designation as a Jack Nicklaus Golf Course. The term shall include all actions which may be required to operate, manage and maintain the Golf Course in a manner consistent with the requirements of the Business Plan and the Golf Course Capital Improvement Plan.

91. "**Golf Course O&M Obligations**" shall mean the obligations that ADLC and Golf Course Authority are required to implement and perform pursuant to Section 5.4 hereof.

92. "**Golf Course Original Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Golf Course Original Parcel Original Quitclaim Deed.

93. "**Golf Course Original Parcel Quitclaim Deed**" shall mean that certain Quitclaim Deed dated May 5, 1994, and recorded on May 5, 1994, at Book 96, Page 198 in the real property records of ADLC.

94. "**Golf Course Reserve Fund**" shall mean the reserve fund maintained by ADLC within the Golf Course Trust Account pursuant to Section 10.4 hereof.

95. "**Golf Course Superfund O&M Annual Performance Evaluation Report**" shall mean the performance evaluation report to be prepared annually by EPA pursuant to the terms of Section 7.2 hereof, the form of which is attached as Exhibit 10 hereto.

96. "**Golf Course Superfund O&M Annual Report**" shall mean an annual report to be prepared by ADLC and/or Golf Course Authority, in a form acceptable to the Parties, which summarizes all activities undertaken by ADLC with respect to the Golf Course Amended Parcel during the prior Fiscal Year. Each annual report shall, at a minimum, include all information required pursuant to Section ___ of the Golf Course Superfund O&M Plan.

97. "**Golf Course Superfund O&M Obligations**" shall mean the obligations that ADLC is required to implement and perform pursuant to Section 5.1 hereof. The term shall not include any obligations that AR is required to perform with respect to Golf Course Superfund Remedial Structures pursuant to Section 5.2 hereof.

98. "**Golf Course Superfund O&M Plan**" shall mean the Old Works Golf Course Operations and Maintenance (O&M) Plan attached as Exhibit 8 hereto any amendments thereto agreed to by AR, ADLC, Golf Course Authority, EPA and the State.

99. "**Golf Course Superfund Remedial Structures**" shall mean the following components of the Golf Course: (i) the high density polyethylene liners beneath Lake #1 and Lake #2; (ii) the polyvinyl chloride liners beneath the greens, tees and bunkers; (iii) the soil cap beneath the areas other than the greens and tees; (iv) the underdrain piping system which routes storm water to Lakes #1 and #2, Sediment Pond 6 and Channel 3A consisting of approximately 31,000 lineal feet of piping, 113 manholes and 133 drainage gate inlets; and (v) the hundred year bank erosion protection on the portions of Warm Springs Creek located within the Golf Course boundaries consisting of riprap and riparian vegetation.

100. "**Golf Course Trust Account**" shall mean a segregated and separate account of ADLC, with a financial institution acceptable to ADLC and AR, that is established pursuant to Section 10.1 hereof.

101. "**Golf Course Water Rights**" shall mean the water and water supply available from and under that certain MDNRC Change Authorization No. 76G-3234201 and Water Right Number 76G P092739-00.

102. "**Governmental Entity**" shall mean any Federal or State government administrative agency or commission, or other governmental authority or instrumentality having

jurisdiction over the Parties and the subject matter of this Agreement. For purposes of this Agreement, the term shall not include ADLC.

103. "**Hotel Amended Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Hotel Amended Parcel Quitclaim Deed.

104. "**Hotel Amended Parcel Quitclaim Deed**" shall mean the form of Quitclaim Deed attached as Exhibit 18 hereto.

105. "**ICIAP**" shall mean the Institutional Controls Implementation and Assurance Plan dated _____, 2016 attached as Exhibit 2 hereto and any amendments thereto agreed to by AR, ADLC, EPA and the State.

106. "**ICMS**" shall mean the computerized institutional controls management system managed and maintained by AR pursuant to the AR ICMS Plan and ADLC pursuant to the ADLC ICMS Plan.

107. "**ICWP**" shall mean an Institutional Controls Work Plan prepared by ADLC pursuant to the DPS Ordinance.

108. "**IICMP**" shall mean ADLC's Interim Institutional Controls Management Plan adopted by resolution of the ADLC Council of Commissioners prior to the Effective Date.

109. "**Institutional Controls Program Accounting Report**" shall mean an annual accounting report, in a form acceptable to ADLC and AR, of all Institutional Controls Program Costs incurred by ADLC for the implementation and performance of Institutional Controls Program Obligations during the prior Fiscal Year. The term shall include a budget reconciliation report which, separately for each budget amount set forth in the approved Institutional Controls Program Budget then in effect, compares the total amount actually incurred by ADLC with the total budgeted amount, and any amounts carried forward by ADLC to the next Fiscal Year.

110. "**Institutional Controls Program Annual Performance Evaluation Report**" shall mean the performance evaluation report to be prepared annually by EPA pursuant to the terms of Section 7.2 hereof, the form of which is attached as Exhibit 3 hereto.

111. "**Institutional Controls Program Annual Report**" shall mean an annual report to be prepared by ADLC, in a form acceptable to ADLC and AR, which summarizes all activities undertaken by ADLC with respect to the Institutional Controls Program Obligations during the prior Fiscal Year. Each annual report shall, at a minimum, include all information required pursuant to Section ___ of the ICIAP.

112. "**Institutional Controls Program Budget**" shall mean a budget, in the form of the Institutional Controls Program Initial Budget, which sets forth all reasonably anticipated Institutional Control Program Costs that ADLC may incur during the next Fiscal Year for the implementation and performance of ADLC's Institutional Controls Program Obligations, and

which sets forth the amount ADLC may request AR to pay to ADLC for the next Fiscal Year for the implementation and performance of ADLC's Institutional Controls Program Obligations.

113. "**Institutional Controls Program Costs**" shall mean the charges, expenses, fees and other costs reasonably incurred by ADLC to perform the Institutional Controls Program Obligations.

114. "**Institutional Controls Program Cost Savings**" shall mean all funds provided by AR to ADLC for a Fiscal Year pursuant to Section 8.2 hereof which are not expended by ADLC during that Fiscal Year for the payment of Institutional Controls Program Costs for reasons other than: (i) a Force Majeure event; (ii) a failure by ADLC to complete a task for which funds were provided in that Fiscal Year; or (iii) any other failure by ADLC to perform any of ADLC's Institutional Controls Program Obligations during that Fiscal Year for any reason.

115. "**Institutional Controls Program Initial Budget**" shall mean the Institutional Controls Program Budget attached as Exhibit 4 hereto.

116. "**Institutional Controls Program MOU**" shall mean that certain Memorandum of Understanding between AR and ADLC dated January 1, 2011, as amended by that certain First Extension Agreement dated January 8, 2013 and that certain Second Extension Agreement dated July 1, 2014.

117. "**Institutional Controls Program Obligations**" shall mean the obligations that ADLC is required to implement and perform pursuant to Sections 3.1, 3.2, 3.3, 3.4, 3.5 and 3.6 hereof.

118. "**Institutional Controls Program Trust Account**" shall mean a segregated and separate account of ADLC, with a financial institution acceptable to ADLC and AR, that is established pursuant to Section 8.1 hereof.

119. "**Lumber Yard Original Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Lumber Yard Original Parcel Quitclaim Deed.

120. "**Lumber Yard Original Parcel Quitclaim Deed**" shall mean that certain Quitclaim Deed dated May 5, 1994, and recorded on June 16, 1994, at Book 96, Page 921 in the real property records of ADLC.

121. "**Mill Creek Amended Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Mill Creek Amended Parcel Quitclaim Deed.

122. "**Mill Creek Amended Parcel Quitclaim Deed**" shall mean the form of Quitclaim Deed attached as Exhibit 19 hereto.

123. "**Mill Creek Original Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Mill Creek Original Parcel Quitclaim Deed.

124. "**Mill Creek Original Parcel Quitclaim Deed**" shall mean that certain Quitclaim Deed dated May 5, 1994, and recorded on August 24, 1994, at Book 98, Page 232 in the real property records of ADLC.

125. "**Mine Waste**" shall mean hazardous substances for which the Parties are required to take action pursuant to the RODs. These substances may include, but are not limited to, waste rock, overburden, tailings, slag, flue dust, metals, contaminated soils and other solid, liquid or gaseous waste materials and their constituents resulting from or related to mining, milling, smelting, refining operations, or other mineral extraction, beneficiation or processing and any structures and debris associated with such operations.

126. "**Old Works Historic Trail Amended Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Old Works Historic Trail Amended Parcel Quitclaim Deed.

127. "**Old Works Historic Trail Amended Parcel Quitclaim Deed**" shall mean the form of Quitclaim Deed attached as Exhibit 20 hereto.

128. "**Old Works Historic Trail Original Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Old Works Historic Trail Original Parcel Quitclaim Deed.

129. "**Old Works Historic Trail Original Parcel Quitclaim Deed**" shall mean that certain Quitclaim Deed dated May 5, 1994, and recorded on May 5, 1994, at Book 96, Page 182 in the real property records of ADLC.

130. "**Parties**" shall mean AR, ADLC and Golf Course Authority.

131. "**Person**" shall mean an individual, trust, firm, joint venture, consortium, commercial entity, partnership, association, or corporation. The term shall not include the Parties or any Governmental Entity.

132. "**Portion of 1982 Parcel**" shall mean the parcel of real property more particularly described in the Portion of 1982 Parcel Quitclaim Deed.

133. "**Portion of 1982 Parcel Quitclaim Deed**" shall mean the form of Quitclaim Deed attached hereto as Exhibit 23.

134. "**Red Sands/Arbiter Amended Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Red Sands/Arbiter Amended Parcel Quitclaim Deed.

135. "**Red Sands/Arbiter Amended Parcel Quitclaim Deed**" shall mean the form of Quitclaim Deed attached hereto as Exhibit 21.

136. "**Red Sands/Arbiter Original Parcel Quitclaim Deed**" shall mean that certain Quitclaim Deed dated May 5, 1994, and recorded on May 5, 1994, at Book 96, Page 230 in the real property records of ADLC.

137. "**Red Sands/Arbiter Original Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Red Sands/Arbiter Original Parcel Quitclaim Deed.

138. "**Regional Historic Preservation Plan**" shall mean the Upper Clark Fork River Basin Regional Historic Preservation Plan dated _____ and any amendment thereto.

139. "**Reimbursement Agreement**" shall mean that certain Old Works/East Anaconda Development Area O&M Obligations Reimbursement Agreement between AR and ADLC dated May 5, 1994.

140. "**Release**" shall mean any spilling, leaking, pumping, pouring, emitting, leaching, migration, emptying, discharging, injecting, escaping, dumping, burying, disposal or emanation whatsoever.

141. "**Response Action**" shall mean any response, removal, or remedial action, within the meaning of those terms under CERCLA and CECRA, regardless of whether such actions are undertaken pursuant to CERCLA or CECRA authority and any reclamation, or rehabilitation actions or any other actions of any kind or nature whatsoever required to address Environmental Conditions. For purposes of this Agreement, the term shall not include: (i) any actions taken principally to assess or restore the quality of any natural resources; or (ii) any Superfund O&M Activities. To the extent the definition of Response Action used in this Agreement is inconsistent with the definitions set forth in Sections 101(23), (24) and (25) of CERCLA and Section 75-10-701 (19) of CECRA the definition of Response Action in this Agreement shall control.

142. "**RODs**" shall mean all Records of Decision issued by EPA with respect to selection of the remedies for each of the Site Operable Units prior to the Effective Date, together with all attachments, amendments, modifications and explanations of significant differences thereto issued by EPA before or after the Effective Date, and all implementing documentation prepared pursuant to the Records of Decisions and related amendments, modifications, and explanations of significant differences.

143. "**Second Programmatic Agreement**" shall mean that certain Second Programmatic Agreement between AR, ADLC, EPA, the Advisory Council on Historic Preservation, the Montana State Historic Preservation Office, the City and County of Butte-Silver Bow, the town of Walkerville and the Montana Department of Environmental Quality dated September 14, 1994.

144. "**Site**" shall mean the Anaconda Smelter NPL Site as depicted on Exhibit 1 hereto and any area within Deer Lodge County hereafter added thereto by EPA.

145. "**Site Operable Units**" shall mean the Mill Creek Operable Unit, the Flue Dust Operable Unit, the Old Works/East Anaconda Development Area Operable Unit, the Community Soils Operable Unit, and the Anaconda Regional Water, Waste and Soils Operable Unit.

146. "**Slag Supply Agreement**" shall mean that certain Old Works Golf Course Slag Supply Agreement between AERL and Golf Course Authority dated June 1, 2012.

147. "**Smelter Stack Viewing Area**" shall mean the viewing area located at the base of the smelter stack, which shall be improved with a gravel parking area and chain link fence surrounding the smelter stack to be constructed by AR in accordance with Section 9.0 of that certain report entitled Final Scope of Work Smelter Hill Facilities Area Remedial Design Unit (RDU) 14 Engineered Cover Installation and dated November 13, 2015.

148. "**Soil Swap Plan**" shall mean the Soil Swap Plan attached as Attachment C to the CPMP Plan.

149. "**South Storm Drain System Funding Agreement**" shall mean that certain South Storm Drain System Funding Agreement between AR and ADLC dated April 13, 2015.

150. "**State**" shall mean the State of Montana, all agencies thereof, and any successors thereto.

151. "**Stucky Ridge Amended Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Stucky Ridge Amended Parcel Quitclaim Deed.

152. "**Stucky Ridge Original Parcel**" shall mean the parcel of real property more particularly described in Attachment 1 to the Stucky Ridge Original Parcel Quitclaim Deed.

153. "**Stucky Ridge Original Parcel Quitclaim Deed**" shall mean that certain Quitclaim Deed dated June 28, 1994, and recorded on July 8, 1994, at Book 97, Page 453 in the real property records of ADLC.

154. "**Superfund Domestic Well Overlay** shall mean the area within Deer Lodge County, Montana, depicted as the "Superfund Domestic Well Overlay" on the map attached as Appendix G to the DPS ordinance and any amendments thereto agreed to by AR, ADLC, EPA and the State.

155. "**Superfund O&M Activities"** shall mean all activities of any kind or nature whatsoever which are required pursuant to the RODs: (i) to monitor Environmental Conditions and/or Response Actions; and (ii) to maintain, repair and/or replace any component of any Response Action. The term shall include, without limitation, all related sampling, inspection and reporting requirements. The term shall also include all activities necessary to fully implement the Golf Course Superfund O&M Plan and the ADLC Parcels Superfund O&M Plan. The term shall also include all activities necessary to maintain an effective vegetative cover.

156. "**Superfund Overlay**" shall mean the area within Deer Lodge County, Montana, depicted as the "Superfund Overlay" on the map attached as Appendix F to the DPS Ordinance and any amendments thereto agreed to by AR, ADLC, EPA and the State.

157. "**Third Party Quitclaim Deed**" shall mean the form of Quitclaim Deed attached as Exhibit 26 hereto.

158. "**Trust Accounts**" shall mean the Institutional Controls Program Trust Account, the ADLC Parcels Superfund O&M Trust Account, the Golf Course Trust account and the Community Enhancement Trust Account.

159. "**Type A Cover Material**" shall mean cover soil which meets the suitability criteria for Type A Material pursuant to the requirements of the RODs.

160. "**Type B Fill Material**" shall mean fill material which meets the suitability criteria for Type B Material pursuant to the requirements of the RODs.

161. "**Waste Management Areas**" shall mean the area within Deer Lodge County, Montana, depicted as the "Waste Management Areas" on the map attached as Appendix H to the DPS Ordinance and any amendments thereto agreed to by AR, ADLC, EPA and the State.

162. "**Weed List**" shall mean the ADLC's Noxious Weed List attached to the ICIAP as Appendix C and any amendments thereto adopted by ADLC for the purpose of adding a weed to the Noxious Weed List and any amendments thereto adopted by ADLC for the purpose of removing a weed from the Weed List provided such removal amendment is adopted in accordance with Section 3.2 hereof.

163. "**Weed Ordinance**" shall mean the ADLC's Solid Waste, Litter and Decay Ordinance attached to the ICIAP as Appendix D and any amendments thereto adopted pursuant to Section 3.2 hereof.

164. "**Weed Spraying MOU**" shall mean that certain Memorandum of Understanding between AR and ADLC dated September 30, 2011, as amended by that certain First Extension Agreement dated February 1, 2012, that certain Second Extension Agreement dated February 1, 2013, that certain Third Extension Agreement dated February 1, 2014 and that certain Addendum No. 1 to Third Extension Agreement dated December 15, 2015.

165. "**Work Takeover**" shall mean the assumption of some or all of ADLC's obligations under this Agreement by EPA or the State without AR's written consent.

ARTICLE II

REPRESENTATIONS AND COVENANTS

Section 2.1. **Representations and Covenants of ADLC**. ADLC represents and covenants as follows:

1. This Agreement has been duly authorized, executed and delivered by ADLC and, upon the valid execution and delivery hereof by AR and Golf Course Authority, is a valid and binding obligation of ADLC, enforceable pursuant to its terms.

2. The execution and delivery of this Agreement and the consummation of the agreements contemplated hereby and the fulfillment of the terms hereof will not conflict with, or constitute on the part of ADLC a breach of, or a default under, any (i) law, or (ii) the Charter of ADLC or any provisions or any other legislative act or other proceeding establishing or relating to the establishment of ADLC or its affairs or its ordinances and resolutions, or (iii) agreement, indenture, mortgage, lease or other instrument to which ADLC is a party or by which it or its property is bound.

3. No officer of ADLC who is authorized to take part in any manner in making this Agreement or any contract contemplated hereby has a personal financial interest in or has personally and financially benefited from the Agreement or any such contract.

4. There is not pending or, to the best knowledge of the officers of ADLC, threatened any suit, action or proceeding against or affecting ADLC before or by any court, arbitrator, administrative agency or other governmental authority which may materially and adversely affect the validity of this Agreement, any of ADLC's obligations under this Agreement, or any of the transactions contemplated hereby.

5. Each of the individuals executing this Agreement on behalf of ADLC is authorized to do so and has the full right, capacity, power and authority to enter into this Agreement and the transactions contemplated herein.

Section 2.2 **Representations and Covenants of Golf Course Authority**. Golf Course Authority represents and covenants as follows:

1. This Agreement has been duly authorized, executed and delivered by Golf Course Authority and, upon the valid execution and delivery hereof by ADLC and AR, is a valid and binding obligation of Golf Course Authority, enforceable pursuant to its terms.

2. The execution and delivery of this Agreement and the consummation of the agreements contemplated hereby and the fulfillment of the terms hereof will not conflict with, or constitute on the part of Golf Course Authority a breach of, or a default under its Articles of Incorporation, Bylaws or any agreement, indenture, mortgage, lease or other instrument to which Golf Course Authority is a party or by which it or its property is bound.

3. No officer of Golf Course Authority who is authorized to take part in any manner in making this Agreement or any contract contemplated hereby has a personal financial interest in or has personally and financially benefited from the Agreement or any such contract.

4. There is not pending or, to the best knowledge of the officers of Golf Course Authority, threatened any suit, action or proceeding against or affecting Golf Course Authority before or by any court, arbitrator, administrative agency or other governmental authority which may materially and adversely affect the validity of this Agreement, any of Golf Course Authority's obligations under this Agreement, or any of the transactions contemplated hereby.

5. Each of the individuals executing this Agreement on behalf of Golf Course Authority is authorized to do so and has the full right, capacity, power and authority to enter into this Agreement and the transactions contemplated herein.

Section 2.3. **Representations and Covenants of AR**. AR represents and covenants as follows:

1. This Agreement has been duly authorized, executed and delivered by AR and, upon the valid execution and delivery hereof by ADLC and Golf Course Authority is a valid and binding obligation of AR, enforceable pursuant to its terms.

2. The execution and delivery of this Agreement and the consummation of the agreements contemplated hereby and the fulfillment of the terms hereof will not conflict with, or constitute on the part of AR a breach of, or a default under its Articles of Incorporation, Bylaws or any agreement, indenture, mortgage, lease or other instrument to which AR is a party or by which it or its property is bound.

3. No officer of AR who is authorized to take part in any manner in making this Agreement or any contract contemplated hereby has a personal financial interest in or has personally and financially benefited from the Agreement or any such contract.

4. There is not pending or, to the best knowledge of the officers of AR, threatened any suit, action or proceeding against or affecting AR before or by any court, arbitrator, administrative agency or other governmental authority which may materially and adversely affects the validity of this Agreement, any of AR's obligations under this Agreement, or any of the transactions contemplated hereby.

5. Each of the individuals executing this Agreement on behalf of AR is authorized to do so and has the full right, capacity, power and authority to enter into this Agreement and the transactions contemplated herein.

ARTICLE III.

INSTITUTIONAL CONTROLS PROGRAM OBLIGATIONS

Section 3.1. **DPS Ordinance**. During the term of this Agreement, ADLC shall fully implement, comply with and enforce the provisions of the DPS Ordinance applicable to the Superfund Overlay and the Superfund Domestic Well Overlay in a manner consistent with the requirements of the ICIAP and the RODs. Within ninety (90) days after the Effective Date, ADLC shall take such actions as may be required to adopt the DPS Ordinance Amendments. Following adoption of the DPS Ordinance Amendments, ADLC shall provide AR, EPA and the State with a copy of all proposed additional amendments to the DPS Ordinance relating to the Superfund Overlay and/or the Superfund Domestic Well Overlay at least ninety (90) days prior to consideration for adoption and shall provide AR, EPA and the State with an opportunity to review and comment on all such proposed amendments to the DPS Ordinance relating to the Superfund Overlay and/or the Superfund Domestic Well Overlay. ADLC shall not adopt any proposed additional amendments to the DPS Ordinance that concerns, relates to or modifies the Superfund Overlay and/or the Superfund Domestic Well Overlay without the written approval of AR, EPA and the State. AR shall not unreasonably withhold its approval of any proposed additional amendments to the DPS Ordinance. ADLC shall also promptly provide AR, EPA and the State with a copy of all adopted amendments to the DPS Ordinance relating to the Superfund Overlay and/or the Superfund Domestic Well Overlay.

Section 3.2. **Weed Ordinance**. During the term of this Agreement, ADLC shall fully comply with and, upon request of AR, enforce the provisions of the Weed Ordinance in order to prevent impairment of permanent vegetative covers within the Site by weeds set forth on the Weed List. ADLC shall provide AR with a copy of all proposed amendments to the Weed Ordinance and all proposed amendments which will serve to remove any weed from the Weed List at least ninety (90) days prior to consideration for adoption and shall provide AR with an opportunity to review and comment on all such proposed amendments to the Weed Ordinance and the Weed list. ADLC shall not adopt any such proposed amendments to the Weed Ordinance or the Weed List without the written approval of AR, which approval shall not be unreasonably withheld by AR. ADLC shall also promptly provide AR with a copy of all adopted amendments to the Weed Ordinance and the Weed List.

Section 3.3. **CPMP Plan**. During the term of this Agreement, ADLC shall fully implement its duties and obligations under the CPMP Plan in a manner consistent with the requirements of the ICIAP, the RODs and this Agreement. AR shall provide ADLC access to a soil source for soil swap purposes pursuant to the terms of the Soil Swap Plan.

Section 3.4. **ICMS Plan**. During the term of this Agreement, AR shall fully implement AR's duties and obligations under the AR ICMS Plan in a manner consistent with the requirements of the ICIAP, the RODs and this Agreement and ADLC shall fully implement ADLC's duties and obligations under the ADLC ICMS Plan in a manner consistent with the requirements of the ICIAP, the RODs and this Agreement. ADLC shall use the ICMS and the information contained therein to assist ADLC in the performance of its Institutional Controls Program Obligations.

Section 3.5. **Covenant Parcels**. Within five (5) days of ADLC's receipt of an application for a development permit pursuant to the DPS Ordinance for a proposed development within the Covenant Parcels, ADLC shall provide written notice of the proposed development to AR, EPA and the State and shall include in such notice a complete copy of the application for a development permit and a legal description of the Covenant Parcel that will be affected by the proposed development. Upon receipt of any such notice, AR will be responsible for determining whether the proposed development complies with all applicable restrictive covenants. In the event AR determines that the proposed development would be inconsistent with the applicable restrictive covenants, as between AR and ADLC, AR will be responsible for taking appropriate steps to compel compliance with the applicable restrictive covenants through informal communications with the developer and, if necessary, through available enforcement actions.

Section 3.6. **Waste Management Areas**. Within five (5) days of ADLC's receipt of an application for a development permit pursuant to the DPS Ordinance for a proposed development involving any excavation greater than five (5) cubic yards within the Waste Management Areas, ADLC shall provide written notice of the proposed development to AR, EPA and the State and shall include in such notice a complete copy of the application for a development permit, a legal description of the Waste Management Area that will be affected by the proposed development and a copy of the proposed ICWP prepared by ADLC for the development. ADLC shall not issue a development permit for a proposed development involving any excavation within the Waste Management Areas unless and until ADLC has secured EPA's approval of the proposed ICWP for the proposed development in accordance with applicable requirements of the CNSA.

Section 3.7. **Development Repository**. Except as otherwise provided in this Section 3.7 and subject to the terms and conditions of the Development Repository O&M Plan, during the term of this Agreement, AR shall, without charge, accept Mine Waste encountered by a permitee under the DPS Ordinance or by ADLC or ADLC's agents, employees, representatives or contractors in the development of property within the Site that is delivered by ADLC or such agents for disposal at the Development Repository. Nothing contained in this Section 3.7 shall require AR to accept any Mine Waste or other materials or debris for disposal at the Development Repository in the event the Mine Waste or other materials or debris was generated at locations outside the geographic boundaries of the Site or in the event the Mine Waste was generated after December 31, 1983 within the Site by a Person or Governmental Entity engaged in the exploration for, mining or processing of minerals or in the event the Mine Waste was generated from a research, demonstration, treatability or education program which is not approved by AR, EPA and the State.

Section 3.8. **DPS Replacement Cover and Fill Material**. Within ninety (90) days after the Effective Date, AR shall deliver to ADLC a quantity of one hundred (100) cubic yards of Type A Cover Material and a quantity of one hundred (100) cubic yards of Type B Fill Material at a secure location at the Anaconda-Deer Lodge County Landfill designated by ADLC. Following the initial delivery of Type A Cover Material and Type B Fill Material, ADLC may request AR to deliver such additional quantities of Type A Cover Material and Type B Fill Material as may be necessary to replenish ADLC's supply of Type A Cover Material and Type B

Fill Material to the quantities included in the initial delivery from AR pursuant to this Section 3.8. Though ADLC shall use reasonable efforts to limit its requests for additional quantities of Type A Cover Material and Type B Fill Material to no more than one (1) request per year, ADLC and AR acknowledge that it may be necessary for ADLC to make more frequent requests due to the number and/or size of developments occurring at any given time. ADLC shall, as appropriate, make the Type A Cover Material and Type B Fill Material provided by AR pursuant to this Section 3.8 available to Persons or Governmental Entities who are required to dispose of contaminated material at the Development Repository pursuant to the requirements of a development permit issued by ADLC to such Persons or Governmental Entities pursuant to the requirements of the DPS Ordinance. ADLC shall take such steps as may be necessary to ensure that (i) the quantity of the Type A Cover Material and Type B Fill Material made available to such Persons or Governmental Entities by ADLC does not exceed the actual quantity of contaminated material disposed of at the Development Repository by such Persons or Governmental Entities, and (ii) that such Persons or Governmental Entities only utilize the Type A Cover Material within the depth of twelve (12) inches below the final surface grade of the excavation (eighteen (18) inches for residential gardens).

Section 3.9. **IICMP**. Within ninety (90) days after the Effective Date, ADLC shall take such actions as may be required to fully repeal the IICMP.

ARTICLE IV.

ADLC PARCELS SUPERFUND O&M OBLIGATIONS

Section 4.1. **ADLC Parcels Superfund O&M**. Except as otherwise provided in Section 4.2 hereof, during the term of this Agreement, ADLC shall fully implement and perform all actions required under the ADLC Parcels Superfund O&M Plan and any other Superfund O&M Activities which may be required pursuant to the RODs with respect to the ADLC Parcels. All actions required by ADLC pursuant to this Section 4.1 shall be implemented and performed by ADLC pursuant to the schedules set forth in the ADLC Parcels Superfund O&M Plan.

Section 4.2. **ADLC Parcels Superfund Remedial Structures**. Notwithstanding any other term or condition of the ADLC Parcels Superfund O&M Plan, the Conveyance Agreement Amended Parcels Quitclaim Deeds or the C-Hill Parcel Re-conveyance Quitclaim Deed, in the event that any ADLC Parcels Superfund Remedial Structure or any component thereof requires corrective measures (including required repairs or replacements) after the Effective Date and the required corrective measures did not result or arise from ADLC's failure to exercise due care in performing any of ADLC's obligations under Section 4.1 hereof, ADLC shall propose an increase to the applicable ADLC Parcels Superfund O&M Budget in accordance with Section 9.4 hereof in an amount appropriate to pay the estimated charges, expenses, fees and other costs which may be reasonably incurred by ADLC to perform the corrective measures. In the event and to the extent that AR approves the proposed increase to the applicable ADLC Parcels Superfund O&M Budget, the required corrective measures shall become an ADLC Parcels Superfund O&M Obligation and shall be performed by ADLC. In the event and to the extent that AR does not approve the proposed increase to the applicable ADLC Parcels Superfund O&M Budget, AR, at AR's expense, shall perform the required corrective measures. ADLC, at

ADLC's expense, from sources separate and independent from the funds provided by AR under this Agreement, shall perform any corrective measures that may be required with respect to any ADLC Parcels Superfund Remedial Structure or any component thereof that results or arises from ADLC's failure to exercise due care in performing any of ADLC's obligations under Section 4.1 hereof.

ARTICLE V.

GOLF COURSE OBLIGATIONS

Section 5.1. **Golf Course Superfund O&M**. Except as otherwise provided in Section 5.2 hereof, during the term of this Agreement, ADLC and Golf Course Authority shall fully implement and perform all actions required under the Golf Course Superfund O&M Plan and any other Superfund O&M Activities which may be required pursuant to the RODs with respect to the Golf Course Amended Parcel and/or the Hotel Amended Parcel. All actions required of ADLC and Golf Course Authority pursuant to this Section 5.1 shall be implemented and performed by ADLC and Golf Course Authority pursuant to schedules set forth in the Golf Course Superfund O&M Plan.

Section 5.2. **Golf Course Superfund Remedial Structures**. Notwithstanding any other term or condition of the Golf Course Superfund O&M Plan or the Golf Course Amended Parcel Quitclaim Deed, in the event that any Golf Course Superfund Remedial Structure or any component thereof requires corrective measures (including repairs or replacements) after the Effective Date, AR shall perform any required corrective measures of the Golf Course Superfund Remedial Structures, at AR's expense; provided, however, ADLC, at ADLC'S expense, from sources separate and independent from the funds provided by AR under this Agreement, shall perform any corrective measures that may be required with respect to any Golf Course Superfund Remedial Structure or any component thereof that results or arises from ADLC's failure to exercise due care in performing any of ADLC's obligations under Sections 5.1 or 5.3 hereof.

Section 5.3. **Golf Course Authority Ordinance**. During the term of this Agreement, ADLC and Golf Course Authority shall fully comply with the Golf Course Authority Ordinance. ADLC shall provide AR with a copy of all proposed amendments to the Golf Course Authority Ordinance at least ninety (90) days prior to consideration for adoption and shall provide AR with an opportunity to review and comment on all such proposed amendments to the Golf Course Authority Ordinance. ADLC shall not adopt any proposed amendment to the Golf Course Authority Ordinance without the written approval of AR, which approval shall not be unreasonably withheld by AR. ADLC shall also promptly provide AR with a copy of all adopted amendments to the Golf Course Authority Ordinance.

Section 5.4. **Golf Course O&M**. During the term of this Agreement, ADLC and Golf Course Authority shall fully implement and perform all Golf Course O&M Activities which may be required on or with respect to the Golf Course in a manner consistent with the requirements of

Golf Course Business Plan, the Golf Course Capital Improvement Plan and the Golf Course Authority Ordinance.

VI.

REAL PROPERTY OBLIGATIONS

Section 6.1. **Conveyance Agreement Parcels and Portion of 1982 Parcel**. In order to facilitate (i) the reconfiguration of the boundaries of the Golf Course Original Parcel, the Old Works Historic Trail Original Parcel and the Red Sands/Arbiter Original Parcel, (ii) the re-conveyance of a certain portion of the Old Works Historic Trail Original Parcel from ADLC to AR, and (iii) certain other amendments to the provisions of certain of the Conveyance Agreement Original Parcels Quitclaim Deeds, within ten (10) days after the Effective Date of this Agreement, the Parties shall cause the Certificate of Survey to be recorded in the real property records of ADLC. Immediately after the recording of the Certificate of Survey, the Parties shall cause each of the Conveyance Agreement Parcels Re-conveyance Quitclaim Deeds to be executed and recorded in the real property records of ADLC. Immediately after the recording of the Conveyance Agreement Parcels Re-conveyance Quitclaim Deeds, the Parties shall cause each of the Conveyance Agreement Amended Parcels Quitclaim Deeds and the Portion of 1982 Parcel Quitclaim Deed to be executed and recorded in the real property records of ADLC. The use and development of the Conveyance Agreement Amended Parcels by ADLC and/or Golf Course Authority shall fully comply with the terms of the applicable Conveyance Agreement Amended Parcels Quitclaim Deeds. The use and development of the Portion of 1982 Parcel by ADLC shall fully comply with the terms of the Portion of 1982 Parcel Quitclaim Deed.

Section 6.2. **C-Hill Parcel**. In order to facilitate the imposition of certain restrictive covenants on the C-Hill Parcel, within ten (10) days after the Effective Date of this Agreement, ADLC shall cause the C-Hill Parcel Conveyance Quitclaim Deed to be executed and recorded in the real property records of ADLC. Immediately after the recording of the C-Hill Parcel Conveyance Quitclaim Deed, AR and ADLC shall cause the C-Hill Parcel Re-conveyance Quitclaim Deed to be executed and recorded in the real property records of ADLC. The use and development of the C-Hill Parcel by ADLC shall fully comply with the terms of the C-Hill Parcel Re-conveyance Quitclaim Deed.

Section 6.3. **Conveyance of Conveyance Agreement Amended Parcels**. From and after the Effective Date of this Agreement, in order to effectuate any conveyance or other disposition of any rights, title or interest of ADLC in and to any Conveyance Agreement Amended Parcels or any portion of any Conveyance Agreement Amended Parcels by deed, ADLC shall use the Third Party Quitclaim Deed form. Such use of the Third Party Quitclaim Deed form by ADLC shall serve to fully satisfy ADLC's "Transfer of Property" obligations under the Conveyance Agreement Amended Parcels Quitclaim Deeds. Additionally, ADLC shall include all of the applicable covenants and the release and covenant not to sue provisions set forth in the applicable Conveyance Agreement Amended Parcels Quitclaim Deed in any lease, easement, license or other instrument or document pertaining to any Conveyance Agreement Amended Parcel or any portion of any Conveyance Agreement Amended Parcel.

Except as otherwise provided in Section 14.4.3 hereof with respect to the Golf Course Amended Parcel, as between AR and ADLC, ADLC's conveyance or other disposition of any of ADLC's rights, title or interest in and to any Conveyance Agreement Amended Parcels or any portion of any Conveyance Agreement Amended Parcels by deed, lease, easement, license or other instrument or document shall not in any way alter or diminish ADLC's duties and obligations under this Agreement or the Conveyance Agreement Amended Parcels Quitclaim Deeds with respect to any such Conveyance Agreement Amended Parcel or portion of any Conveyance Agreement Amended Parcel.

Section 6.4. **Conveyance of C-Hill Parcel**. From and after the Effective Date of this Agreement, in order to effectuate any conveyance or other disposition of any rights, title or interest of ADLC in and to the C-Hill Parcel or any portion of the C-Hill Parcel by deed, ADLC shall use the Third Party Quitclaim Deed form. Such use of the Third Party Quitclaim Deed form by ADLC shall serve to fully satisfy ADLC's "Transfer of Property" obligations under the C-Hill Parcel Re-conveyance Quitclaim Deed. Additionally, ADLC shall include all of the applicable covenants and the release and covenant not to sue provisions set forth in the C-Hill Parcel Re-conveyance Quitclaim Deed in any lease, easement, license or other instrument or document pertaining to the C-Hill Parcel or any portion of the C-Hill Parcel. As between the Parties, ADLC's conveyance or other disposition of any of ADLC's rights, title or interest in and to the C-Hill Parcel or any portion of the C-Hill Parcel by deed, lease, easement, license or any other instrument or document shall not in any way alter or diminish ADLC's duties and obligations under this Agreement and/or the C-Hill Parcel Re-conveyance Quitclaim Deed with respect to the C-Hill Parcel or any portion of the C-Hill Parcel.

Section 6.5. **Access to ADLC Properties**. From and after the Effective Date of this Agreement, ADLC shall, without charge, provide AR, EPA, the State and their respective agents, employees, representatives and contractors, access to the Conveyance Agreement Amended Parcels, the C-Hill Parcel and any other property of any kind or nature which is owned or controlled by ADLC, for the purposes of conducting any activity related directly or indirectly to the RODs or this Agreement including, without limitation, the following:

1. Conducting investigations relating to Environmental Conditions;

2. Assessing the need for, planning, implementing, performing or monitoring any Response Actions or Superfund O&M Activities;

3. Verifying any data or information submitted to AR, EPA and/or the State;

4. Obtaining samples;

5. Verifying ADLC's compliance with the terms and conditions of this Agreement and/or applicable deeds; and

6. Remedying any ADLC Default and/or Golf Course Authority Default pursuant to Section 14.3 hereof.

In exercising its rights under this Section 6.5, AR shall provide ADLC with reasonable prior written notice of its intent to access the property and AR shall make reasonable efforts to minimize any inconvenience to ADLC while conducting any such activity. The access rights granted by ADLC to AR pursuant to this Section 6.5 are intended to be in addition to, and not in any way in lieu of, the access rights previously granted by ADLC to AR pursuant to the Conveyance Agreement Parcels Access Agreement.

Section 6.6. **Golf Course Water Rights**. For and in consideration of the conveyance of the Golf Course Water Rights to ADLC pursuant to the Golf Course Amended Parcel Quitclaim Deed, ADLC and Golf Course Authority hereby fully and forever release and discharge AR from any and all duties and obligations to secure water or water rights for the Golf Course.

Section 6.7. **Country Club Water Right.** Promptly after the Effective Date, ADLC shall cause a hydrogeologic report to be prepared pursuant to the requirements of Mont. Code Ann §§ 85-2-360 and 361 to identify the net depletions to the flows in the Clark Fork River at the confluence of Silver Bow Creek and Warms Springs Creek that will result from irrigating forty three (43) acres of the Country Club. Upon completion of the geologic report, ADLC shall tender the geologic report to AR. In the event AR disagrees with the geologic report in any respect, AR shall, within thirty (30) days of AR's receipt of the geologic report, so notify ADLC and shall include in such notice an explanation of the bases for AR's disagreement. In the event and to the extent that ADLC and AR are unable to resolve any such disagreements within a reasonable time, either ADLC or AR, at their election, may pursue mediation and, if necessary, arbitration pursuant to Sections 14.5 and 14.6 hereof in order to resolve the disagreements. AR shall, within sixty (60) days of AR's receipt of the geologic report or within thirty (30) days after a final decision of the arbitrator, whichever occurs later, cause AERL to convey an irrigation water right owned by AERL on Warm Springs Creek to ACC in an amount not greater than the quantity required to offset or mitigate the net depletion to the flows in the Clark Fork River at the confluence of Silver Bow Creek and Warms Springs Creek created by the irrigation of the forty three (43) acres of the Country Club but such amount shall not in any event or under any circumstance be an amount greater than one (1) cubic foot per second (cfs). The conveyance from AERL to ACC shall be in the form of a quitclaim deed, without warranty of any kind and shall be made subject to the rights of AERL, at AERL's election, to require the reconveyance of the irrigation water right to AERL in the event (i) the water right is ever needed by AERL or AR to offset or mitigate the effect of Response Actions that AR or AERL are required to undertake or perform after the date of the conveyance to ACC or (ii) ACC's operation of the country club as a golf course ceases for any reason. Following the conveyance of the irrigation water right, ADLC and/or ACC, at their expense, shall be responsible for the preparation of all applications and the prosecution of all attendant proceedings before the Montana Department of Natural Resources and Conservation related to the acquisition of a new water use permit and a change of water right. AR will reasonably cooperate with ADLC and/or ACC in the preparation of such applications and the prosecution of such attendant proceedings.

Section 6.8. **Smelter Stack Viewing Area.** AR shall use reasonable efforts to ensure that that the construction of the Smelter Stack Viewing Area is completed during the 2017 calendar year. Additionally, promptly after the Effective Date, representatives of AR and ADLC

shall meet and confer for the purpose of developing appropriate written protocols for allowing controlled public access to the Smelter Stack Viewing Area.

Section 6.9. Cow and Horse Pastures. ADLC hereby acknowledges that AR has committed to the State to cause AR's affiliate, AERL, to convey AERL's rights, title and interest in and to the Cow and Horse Pastures to the State. Notwithstanding AR's commitment to the State, AR and ADLC shall use reasonable efforts to secure an agreement with the State that would serve to allow the conveyance of the Cow and Horse Pastures to ADLC or its designees or the right of ADLC or its designee to engage in appropriate grazing activities on the Cow and Horse Pastures. Nothing contained in this Section 6.9, however, shall require AR to pay or provide the State with any monetary or other consideration for such agreement.

ARTICLE VII.

PERFORMANCE EVALUATIONS AND INCENTIVE PAYMENTS

Section 7.1. Annual Reports. During the term of this Agreement, ADLC shall prepare and provide an Institutional Controls Program Annual Report and an ADLC Parcels Superfund O&M Report to AR, EPA and the State within one hundred eighty (180) days after the end of each Fiscal Year. Additionally, during the term of this Agreement, ADLC and Golf Course Authority shall prepare and provide a Golf Course Superfund O&M Annual Report to AR, EPA and the State within one hundred eighty (180) days after the end of each Fiscal Year.

Section 7.2. Annual Performance Evaluation Meetings and Reports. During the term of this Agreement, appropriate representatives of the Parties shall attend and participate in an Annual Performance Evaluation Meeting within sixty (60) days after receipt of the Institutional Controls Program Annual Report, the ADLC Parcels Superfund O&M Report and the Golf Course Superfund O&M Annual Report. Appropriate representatives of EPA and the State will also attend and participate in each Annual Performance Evaluation Meeting pursuant to the terms of the CNSA. Within thirty (30) days of each Annual Performance Evaluation Meeting, EPA will issue the Annual Performance Evaluation Reports pursuant to terms of the CNSA. In the event any deficiencies are identified in any Institutional Controls Program Annual Performance Evaluation Report or any ADLC Parcels Superfund O&M Annual Performance Evaluation Report, ADLC shall take all actions which may be required to timely correct any and all such deficiencies. In the event and to the extent such deficiencies result from the failure of ADLC to comply with the terms of this Agreement in the performance of the Institutional Controls Program Obligations or the ADLC Parcels Superfund O&M Obligations, ADLC shall expend funds to correct such deficiencies from sources separate and independent from the funds provided by AR under this Agreement. In the event any deficiencies are identified in any Golf Course Superfund O&M Annual Performance Evaluation Report, ADLC and/or Golf Course Authority shall immediately take all actions which may be required to timely correct any and all such deficiencies. In the event and to the extent such deficiencies result from the failure of ADLC and/or Golf Course Authority to comply with the terms of this Agreement in the performance of the Golf Course Superfund O&M Obligations, ADLC and/or Golf Course Authority shall expend funds to correct such deficiencies from sources separate and independent from the funds provided by AR under this Agreement. Nothing contained in this Section 7.2 or

in any of the Annual Performance Evaluation Reports prepared by EPA will serve in any way to limit or preclude AR from commenting on such annual reports and exercising any and all of AR's rights and remedies under Article XIV hereof with respect to any failure by ADLC and/or Golf Course Authority to perform any of their respective duties and obligations under this Agreement.

Section 7.3. **Five Year Review Reports**. The Parties anticipate that EPA will issue Five Year Review Reports for the Site and that such Five Year Review Reports will include an evaluation of the performance of the Institutional Controls Program Obligations, the ADLC Parcels Superfund O&M Obligations and the Golf Course Superfund O&M Obligations by ADLC and/or Golf Course Authority. In the event any deficiencies with respect to the performance of the Institutional Controls Program Obligations or the ADLC Parcels Superfund O&M Obligations are identified in any Five Year Review Report, ADLC shall take all actions which may be required to timely correct any and all such deficiencies. In the event and to the extent such deficiencies result from any failure of ADLC to comply with the terms of this Agreement in the performance of the Institutional Controls Program Obligations or the ADLC Parcels Superfund O&M Obligations, ADLC shall expend funds to correct such deficiencies from sources separate and independent from the funds provided by AR under this Agreement. In the event any deficiencies with respect to the performance of the Golf Course Superfund O&M Obligations are identified in any Five Year Review Report, ADLC and/or Golf Course Authority shall immediately take all actions which may be required to timely correct any and all such deficiencies. In the event and to the extent such deficiencies result from the failure of ADLC and/or Golf Course Authority to comply with the terms of this Agreement in the performance of the Golf Course Superfund O&M Obligations, ADLC and/or Golf Course Authority shall expend funds to correct such deficiencies from sources separate and independent from the funds provided by AR under this Agreement. Nothing contained in this Section 7.3 or in any Five Year Review Report issued by EPA will serve in any way to limit or preclude AR from exercising any and all of AR's rights and remedies under Article XIV hereof with respect to any failure by ADLC and/or Golf Course Authority to perform any of their respective duties and obligations under this Agreement.

Section 7.4. **Annual Performance Incentive Payments**. In the event ADLC is determined to have fully performed the Institutional Controls Program Obligations and the ADLC Parcels Superfund O&M Obligations during a Fiscal Year and ADLC and Golf Course Authority are determined to have fully implemented the Golf Course Superfund O&M Obligations during that Fiscal Year, as evidenced by the absence of any Default by ADLC and/or Golf Course Authority during that Fiscal Year and the absence of any deficiencies identified in the applicable Annual Performance Evaluation Reports for that Fiscal Year, AR shall pay ADLC, as a performance incentive, an amount equal to ten percent (10 %) of the total amount of the approved Institutional Controls Budget and the ADLC Parcels Superfund O&M Budget for that Fiscal Year within sixty (60) days after the date of AR's receipt of the Annual Performance Evaluation Reports. In the event ADLC and/or Golf Course Authority were in Default with respect to any of their duties and obligations under this Agreement during the Fiscal Year and/or deficiencies were identified in the Annual Performance Evaluation Reports provided by EPA for the Fiscal Year, such payment shall not be due until sixty (60) days after (i) the date on which ADLC and/or Golf Course Authority have cured all such Defaults, or (ii) the date on which AR

receives EPA's written confirmation that ADLC has corrected all deficiencies identified in the Annual Performance Evaluation Reports, whichever occurs later. The amounts paid by AR to ADLC pursuant to this Section 7.4 may be used by ADLC for any purpose ADLC deems appropriate.

Section 7.5. **Five Year Review Performance Incentive Payments**. In the event ADLC is determined to have fully performed the Institutional Controls Program Obligations and the ADLC Parcels Superfund O&M Obligations during a Five Year Review Period and ADLC and Golf Course Authority are determined to have fully implemented the Golf Course Superfund O&M Obligations during that Five Year Review Period, as evidenced by the absence of any non-protectiveness determination or other deficiencies identified in the applicable Five Year Review Report for that Five Year Review Period with respect to the Institutional Controls Program Obligations, the ADLC Parcels Superfund O&M Obligations and/or the Golf Course Superfund O&M Obligations, AR shall, within sixty (60) days after the date of AR's receipt of the Five Year Review Report, pay ADLC, as a performance incentive, the amount of Two Hundred Thousand and No/100ths Dollars ($200,000.00), which amount shall, prior to payment, be adjusted (increased or decreased as appropriate) in order to account for inflation or deflation, as the case may be, in an amount equal to the percentage difference between the CPI Base Figure and the CPI Adjustment Figure. In the event the applicable Five Year Review Report contains any non-protectiveness determination or other identified deficiencies with respect to the Institutional Controls Program Obligations, the ADLC Parcels Superfund O&M Obligations and/or the Golf Course Superfund O&M Obligations, such payment shall not be payable by AR to ADLC unless AR receives EPA's written confirmation that ADLC has corrected the circumstances or conditions which gave rise to the non-protectiveness determination and other deficiencies identified in the applicable Five Year Review Report within one (1) year after EPA's issuance of the applicable Five Year Review Report. In the event AR receives such written confirmation from EPA within one (1) year after EPA's issuance of the applicable Five Year Review Report, such payment shall be due and payable within sixty (60) days after AR's receipt of the written confirmation. The amounts paid by AR to ADLC pursuant to this Section 7.5 may be used by ADLC for any purpose ADLC deems appropriate.

VIII.

INSTITUTIONAL CONTROLS PROGRAM FUNDING

Section 8.1. **Establishment of Institutional Controls Program Trust Account**. Within thirty (30) days after the Effective Date, ADLC shall establish the Institutional Controls Program Trust Account.

Section 8.2. **Funding of Institutional Controls Program Trust Account**. For and in consideration of the mutual covenants and promises contained herein, for the first Fiscal Year of this Agreement, AR shall provide funding to ADLC for deposit into the Institutional Controls Program Trust Account in the total amount of One Million One Hundred Sixty Thousand and No/100ths Dollars ($1,160,000.00) as reflected in the Institutional Controls Program Initial Budget. The annual funding for the first Fiscal Year shall be payable by AR to ADLC within sixty (60) days after the Effective Date. Subject to the terms of Section 8.4 hereof, annual

funding for the second Fiscal Year and all subsequent Fiscal Years during the term of this Agreement shall be in the amount of Five Hundred Thousand and No/100ths Dollars ($500,000.00) per Fiscal Year and shall be due and payable on or before the commencement of each Fiscal Year. The amounts to be paid by AR to ADLC pursuant to this Section 8.2 commencing with the payment to be made on or before the commencement of the second Fiscal Year shall be adjusted prior to payment (increased or decreased as appropriate) in order to account for inflation or deflation, as the case may be, in an amount equal to the percentage difference between the CPI Base Figure and the CPI Adjustment Figure.

Section 8.3. Authorized Uses of Institutional Controls Program Trust Account Funds. All funds provided to ADLC by AR for deposit into the Institutional Controls Program Trust Account pursuant to Section 8.2 hereof shall be held in trust and may be drawn upon and used by ADLC solely and exclusively for the payment of Institutional Controls Program Costs. Additionally, ADLC may use funding provided pursuant to Section 8.2 hereof for the first Fiscal Year to pay the charges, expenses, fees and other costs reasonably incurred by ADLC pursuant to the Assistance MOU and the Institutional Controls Program MOU for the period from July 1, 2106 through the Effective Date of this Agreement. The funds provided by AR to ADLC pursuant to Section 8.2 hereof may not be used by ADLC for any other purposes without the prior written consent of AR.

Section 8.4. Institutional Controls Program Budget. At least ninety (90) days prior to the end of the first Fiscal Year of this Agreement and at least ninety (90) days prior to the end of each subsequent Fiscal Year, ADLC shall prepare and provide to AR an Institutional Controls Program Budget for the forthcoming Fiscal Year. ADLC may propose increases to the total funding amount authorized for a Fiscal Year pursuant to Section 8.2 hereof in any Institutional Controls Program Budget prepared and provided to AR pursuant to this Section 8.4. ADLC may also propose increases during the course of the Fiscal Year to address circumstances which were unknown to ADLC at the time the Institutional Controls Program Budget for that Fiscal year was prepared and provided to AR. All proposed increases to the total funding amount authorized pursuant to Section 8.2 hereof shall be accompanied by a reasonably detailed narrative explanation of the reasons for the proposed increase and shall not be effective unless approved in writing by AR, which approval shall not be unreasonably withheld by AR. In the event and to the extent that ADLC believes that approval of any proposed increase to the total funding amount for a Fiscal Year has been unreasonably withheld by AR, ADLC, at its election, may pursue mediation and, if necessary, arbitration pursuant to Sections 14.5 and 14.6 hereof in order to resolve the dispute. ADLC shall not incur any charges, expenses, fees or other costs for Institutional Controls Program Obligations during a Fiscal Year in excess of or in addition to the total funding amount authorized pursuant to Section 8.2 hereof or otherwise approved pursuant to this Section 8.4. ADLC and AR acknowledge that the funding amounts set forth in Section 8.2 hereof do not create any type of presumption for or against any increase to the funding amounts authorized pursuant to Section 8.2 hereof which may be proposed by ADLC. ADLC and AR further acknowledge that the funding amounts set forth in Section 8.2 hereof represent the best estimates of ADLC and AR as of the Effective Date with respect to the reasonably anticipated Institutional Controls Program Costs that may be incurred by ADLC during future Fiscal Years for implementation of the Institutional Controls Program Obligations and that those estimates are based upon certain assumptions that will not be certain until after the Institutional

Controls Program Obligations have been fully implemented and may be further affected by factors such as increased or decreased development activities. ADLC and AR further acknowledge that it is the their intent under Section 8.2 hereof and this Section 8.4 that the reasonably anticipated Institutional Controls Program Costs for each Fiscal Year will be adequately funded by AR.

Section 8.5. **Institutional Controls Program Cost Savings**. The total amount of each Institutional Controls Program Cost Savings shall be allocated between AR and ADLC as set forth in this Section 8.5:

1. In the event ADLC is determined to have fully performed the Institutional Controls Program Obligations during a Fiscal Year for which there is an Institutional Controls Program Cost Savings, as evidenced by the absence of any Default by ADLC and/or Golf Course Authority during that Fiscal Year and the absence of any deficiencies identified in the applicable Institutional Controls Program Annual Performance Evaluation Report for that Fiscal Year, fifty percent (50%) of the total amount of the Institutional Controls Program Cost Savings shall be allocated to ADLC and fifty percent (50%) of the total amount of the Institutional Controls Program Cost Savings shall be allocated to AR. The portion of any Institutional Controls Program Cost Savings allocated to ADLC pursuant to this Section 8.5.1 may be withdrawn by ADLC from the Institutional Controls Program Trust Account and used by ADLC for any purpose ADLC deems appropriate. The portion of any Institutional Controls Program Cost Savings allocated to AR pursuant to this Section 8.5.1 shall be carried over to pay Institutional Controls Program Costs during the next Fiscal Year.

2. In the event ADLC is determined to have failed to fully perform the Institutional Controls Program Obligations during a Fiscal Year for which there is an Institutional Controls Program Cost Savings, as evidenced by the identification of deficiencies in the applicable Institutional Controls Program Annual Performance Evaluation Report for that Fiscal Year, and/or ADLC is otherwise in Default with respect to any of ADLC's duties and obligations under this Agreement at the time of issuance of the Institutional Controls Program Annual Performance Evaluation Report, one hundred percent (100%) of the Institutional Controls Program Cost Savings shall be allocated to AR and shall be carried over to pay Institutional Controls Program Costs during the next Fiscal Year.

3. All carry over funds allocated to AR pursuant to Sections 8.5.1 or 8.5.2 hereof shall be reflected in the Institutional Controls Program Accounting Reports provided by ADLC to AR pursuant to Section 8.6 hereof for the Fiscal Year and shall serve to reduce the amount of the next payment that would otherwise be payable by AR to ADLC pursuant to Section 8.2 hereof in an amount equal to the total sum of the carry over funds.

Section 8.6. **Institutional Controls Program Accounting Reports**. During the term of this Agreement, ADLC shall prepare and provide an Institutional Controls Program Accounting Report to AR within ninety (90) days after the end of each Fiscal Year. All funds provided by AR to ADLC for a Fiscal Year pursuant to Section 8.2 hereof which are not expended by ADLC during that Fiscal Year for the payment of Institutional Controls Program Costs and are not otherwise allocated between ADLC and AR as an Institutional Controls

Program Cost Savings in accordance with section 8.5 hereof shall be treated as carryover funds and shall serve to reduce the amount of the next payment that would otherwise be payable by AR to ADLC pursuant to Section 8.2 hereof in an amount equal to the total sum of the carry over funds.

Section 8.7. **Books of Record; Inspection and Audit**. ADLC will keep, or cause to be kept, proper books of record separate from all other records, in which complete and correct entries shall be made of ADLC's transactions relating to Institutional Controls Program Costs. Such books of record shall be at all times during business hours subject to the inspection and audit of AR, at AR's expense.

ARTICLE IX.

ADLC PARCELS SUPERFUND O&M FUNDING

Section 9.1. **Establishment of ADLC Parcels Superfund O&M Trust Account**. Within thirty (30) days after the Effective Date, ADLC shall establish the ADLC Parcels Superfund O&M Trust Account.

Section 9.2. **Funding of ADLC Parcels Superfund O&M Trust Account**. For and in consideration of the mutual covenants and promises contained herein, for each Fiscal Year during the term of this Agreement, AR shall provide funding to ADLC for deposit into the ADLC Parcels Superfund O&M Trust Account in the total amount Forty Thousand and No/100ths Dollars ($40,000.00) per Fiscal Year as reflected in the ADLC Parcels Superfund O&M Initial Budget. The annual funding for the first Fiscal Year shall be payable by AR to ADLC within sixty (60) days after the Effective Date. Subject to the terms of Section 9.4 hereof, annual funding for all subsequent Fiscal Years shall be due and payable on or before the commencement of each Fiscal Year. The amounts to be paid by AR to ADLC pursuant to this Section 9.2 commencing with the payment to be made on or before the commencement of the second Fiscal Year shall be adjusted prior to payment (increased or decreased as appropriate) in order to account for inflation or deflation, as the case may be, in an amount equal to the percentage difference between the CPI Base Figure and the CPI Adjustment Figure.

Section 9.3. **Authorized Uses of ADLC Parcels Superfund O&M Trust Account Funds**. All funds provided to ADLC by AR for deposit into the ADLC Parcels Superfund O&M Trust Account pursuant to Section 9.2 hereof shall be held in trust and may be drawn upon and used by ADLC solely and exclusively for the payment of ADLC Parcels Superfund O&M Costs. The funds provided by AR to ADLC pursuant to Section 9.2 hereof may not be used by ADLC for any other purposes without the prior written consent of AR.

Section 9.4. **ADLC Parcels Superfund O&M Budget**. At least ninety (90) days prior to the end of the first Fiscal Year of this Agreement and at least ninety (90) days prior to the end of each subsequent Fiscal Year, ADLC shall prepare and provide to AR an ADLC Parcels Superfund O&M Budget for the forthcoming Fiscal Year. ADLC may propose increases to the total funding amount authorized for a Fiscal Year pursuant to Section 9.2 hereof in any

Institutional Controls Program Budget prepared and provided to AR pursuant to this Section 9.4. ADLC may also propose increases during the course of the Fiscal Year to address circumstances which were unknown to ADLC at the time the ADLC Parcels Superfund O&M Budget for that Fiscal year was prepared and provided to AR. All proposed increases to the total funding amount authorized pursuant to Section 8.2 hereof shall be accompanied by a reasonably detailed narrative explanation of the reasons for the proposed increase and shall not be effective unless approved in writing by AR, which approval shall not be unreasonably withheld by AR. In the event and to the extent that ADLC believes that approval of any proposed increase to the total funding amount for a Fiscal Year has been unreasonably withheld by AR, ADLC, at its election, may pursue mediation and, if necessary, arbitration pursuant to Sections 14.5 and 14.6 hereof in order to resolve the dispute. ADLC shall not incur any charges, expenses, fees or other costs for ADLC Parcels Superfund O&M Obligations during a Fiscal Year in excess of or in addition to the total funding amount authorized pursuant to Section 9.2 hereof or otherwise authorized pursuant to this Section 9.4.

Section 9.5. **ADLC Parcels Superfund O&M Cost Savings**. The total amount of each ADLC Parcels Superfund O&M Cost Savings shall be allocated between AR and ADLC as set forth in this Section 9.5:

1. In the event ADLC is determined to have fully performed the ADLC Parcels Superfund O&M Obligations during a Fiscal Year for which there is an ADLC Parcels Superfund O&M Cost Savings, as evidenced by the absence of any Default by ADLC and/or Golf Course Authority during that Fiscal Year and the absence of any deficiencies identified in the applicable ADLC Parcels Superfund O&M Annual Performance Evaluation Report for that Fiscal Year, fifty percent (50%) of the total amount of the ADLC Parcels Superfund O&M Cost Savings shall be allocated to ADLC and fifty percent (50%) of the total amount of the ADLC Parcels Superfund O&M Cost Savings shall be allocated to AR. The portion of any ADLC Parcels Superfund O&M Cost Savings allocated to ADLC pursuant to this Section 9.5.1 may be withdrawn by ADLC from the Institutional Controls Program Trust Account and used by ADLC for any purpose ADLC deems appropriate. The portion of any ADLC Parcels Superfund O&M Cost Savings allocated to AR pursuant to this Section 9.5.1 shall be carried over to pay ADLC Parcels Superfund O&M Costs during the next Fiscal Year.

2. In the event ADLC is determined to have failed to fully perform the ADLC Parcels Superfund O&M Obligations during a Fiscal Year for which there is an ADLC Parcels Superfund O&M Cost Savings, as evidenced by the identification of deficiencies in the applicable ADLC Parcels Superfund O&M Annual Performance Evaluation Report for that Fiscal Year, and/or ADLC is otherwise in Default with respect to any of ADLC's duties and obligations under this Agreement at the time of issuance of the ADLC Parcels Superfund O&M Annual Performance Evaluation Report, one hundred percent (100%) of the ADLC Parcels Superfund O&M Cost Savings shall be allocated to AR and shall be carried over to pay ADLC Parcels Superfund O&M Costs during the next Fiscal Year.

3. All carry over funds allocated to AR pursuant to Sections 9.5.1 or 9.5.2 hereof shall be reflected in ADLC Parcels Superfund O&M Accounting Reports provided by ADLC to AR pursuant to Section 9.6 hereof for the Fiscal Year and shall serve to reduce the amount of the

next payment that would otherwise be payable by AR to ADLC pursuant to Section 9.2 hereof in an amount equal to the total sum of the carry over funds.

Section 9.6. **ADLC Parcels Superfund O&M Accounting Reports**. During the term of this Agreement, ADLC shall prepare and provide an ADLC Parcels Superfund O&M Accounting Report to AR within ninety (90) days after the end of each Fiscal Year. All funds provided by AR to ADLC for a Fiscal Year pursuant to Section 9.2 hereof which are not expended by ADLC during that Fiscal Year for the payment of ADLC Parcels Superfund O&M Costs and are not otherwise allocated between ADLC and AR as an ADLC Parcels Superfund O&M Cost Savings in accordance with section 9.5 hereof shall be treated as carryover funds and shall serve to reduce the amount of the next payment that would otherwise be payable by AR to ADLC pursuant to Section 9.2 hereof in an amount equal to the total sum of the carry over funds.

Section 9.7. **Books of Record; Inspection and Audit**. ADLC will keep, or cause to be kept, proper books of record separate from all other records, in which complete and correct entries shall be made of ADLC's transactions relating to ADLC Parcels Superfund O&M Costs. Such books of record shall be at all times during business hours subject to the inspection and audit of AR, at AR's expense.

ARTICLE X.

GOLF COURSE FUNDING

Section 10.1. **Establishment of Golf Course Trust Account**. Within thirty (30) days after the Effective Date, ADLC shall establish the Golf Course Trust Account.

Section 10.2. **Funding of Golf Course Trust Account**. AR shall provide funding to ADLC for deposit into the Golf Course Trust Account as follows:

1. Within sixty (60) days after the Effective Date, AR shall provide initial funding to ADLC for deposit into the Golf Course Trust Account in the amount of One Million One Hundred Fifty Thousand and No/100ths Dollars ($1,150,000.00).

2. On or before the commencement of the second Fiscal Year, AR shall provide additional funding to ADLC for deposit into the Golf Course Trust Account in the amount of Four Hundred Ninety Thousand and No/100ths Dollars ($490,000.00).

3. On or before the commencement of the third Fiscal Year, AR shall provide additional funding to ADLC for deposit into the Golf Course Trust Account in the amount of Four Hundred Ninety Thousand and No/100ths Dollars ($490,000.00).

4. On or before the commencement of the fourth Fiscal Year and on or before the commencement of each subsequent Fiscal Year during the term of this Agreement through and including the twenty-first Fiscal Year, AR shall provide additional annual funding to ADLC for

deposit into the Golf Course Trust Account in the amount of One Hundred and Ninety Thousand and No/100ths Dollars ($190,000.00).

5. On or before the commencement of the twenty-second Fiscal Year and on or before the commencement of each subsequent Fiscal Year during the term of this Agreement, AR shall provide additional annual funding to ADLC for deposit into the Golf Course Trust Account in the amount of Two Hundred Fifty Thousand and No/100ths Dollars ($250,000.00).

The amounts to be paid by AR to ADLC pursuant to Sections 10.2.2, 10.2.3, 10.2.4 and 10.2.5 hereof shall be adjusted prior to payment (increased or decreased as appropriate) in order to account for inflation or deflation, as the case may be, in an amount equal to the percentage difference between the CPI Base Figure and the CPI Adjustment Figure.

Section 10.3. Authorized Uses of Golf Course Trust Account Funds. All funds provided to ADLC by AR for deposit into the Golf Course Trust Account pursuant to Section 10.2 hereof shall be held in trust and may be drawn upon and used by ADLC solely and exclusively for the payment by ADLC and/or Golf Course Authority of Golf Course Costs. The funds provided by AR to ADLC pursuant to Section 10.2 hereof may not be used by ADLC and/or Golf Course Authority for any other purposes without the prior written consent of AR.

Section 10.4. Golf Course Reserve Fund. From the total amount deposited into the Golf Course Trust Account pursuant to section 10.2.1 hereof, ADLC shall maintain the amount of Three Hundred Thousand and No/100ths Dollars ($300,000.00) in the Golf Course Reserve Fund. ADLC shall not draw upon the funds maintained in the Golf Course Reserve Fund without the written approval of AR, which approval shall not be unreasonably withheld by AR.

Section 10.5. Golf Course Reports. ADLC and/or Golf Course Authority shall provide copies to AR of all final reports generated or required to be generated for the Golf Course and/or the Golf Course Amended Parcel. Such reports shall include, without limitation, all reports prepared for ADLC and/or Golf Course Authority by or on behalf of the Golf Course manager, all financial and accounting reports and all budgets and budget reports. Such reports shall be provided to AR contemporaneously with their receipt in draft and in final form by ADLC and/or Golf Course Authority. Additionally, during the term of this Agreement, ADLC and Golf Course Authority shall prepare and provide a Golf Course Accounting Report to AR within ninety (90) days after the end of each Fiscal Year.

Section 10.6. Books of Record; Inspection and Audit. ADLC will keep, or cause to be kept, proper books of record separate from all other records, in which complete and correct entries shall be made of ADLC's transactions relating to Golf Course Costs. Such books of record shall be at all times during business hours subject to the inspection and audit of AR, at AR's expense.

ARTICLE XI

COMMUNITY ENHANCEMENT FUNDING

Section 11.1. Establishment of Community Enhancement Trust Account. Within thirty (30) days after the Effective Date, ADLC shall establish the Community Enhancement Trust Account.

Section 11.2. Funding of Community Enhancement Trust Account. AR shall provide funding to ADLC for deposit into the Community Enhancement Trust as follows:

1. Within sixty (60) days after the Effective Date, AR shall provide initial funding to ADLC for deposit into the Community Enhancement Trust Account in the amount of One Million and No/100ths Dollars ($1,000,000.00).

2. Within sixty (60) days after the Consent Decree is effective as a final court order, AR shall provide additional funding to ADLC for deposit into the Community Enhancement Trust Account in the amount of One Million and No/100ths Dollars ($1,000,000.00).

3. AR shall provide additional funding to ADLC for deposit into the Community Enhancement Trust Account in the amounts and on or before the dates set forth in the Community Enhancement Incentive Payments Schedule, adjusted for inflation or deflation as provided in Section 11.2.5 below.

4. On or before the commencement of the second Fiscal Year and on or before the commencement of each subsequent Fiscal Year during the term of this Agreement, AR shall provide additional funding to ADLC for deposit into the Community Enhancement Trust Account in the amount of Two Hundred Fifty Thousand and No/100ths Dollars ($250,000.00), adjusted for inflation or deflation as provided in Section 11.2.5 below.

5. The amounts to be paid by AR to ADLC pursuant to Sections 11.2.3 and 11.2.4 hereof commencing with the payment to be made on or before the commencement of the second Fiscal Year shall be adjusted prior to payment (increased or decreased as appropriate) in order to account for inflation or deflation, as the case may be, in an amount equal to the percentage difference between the CPI Base Figure and the CPI Adjustment Figure. Each of the amounts to be paid by AR to ADLC pursuant to Section 11.2.2 and 11.2.3 hereof may be deferred by ADLC, at ADLC's election, in accordance with Section 11.4 hereof for a period not to exceed five (5) years. In the event and to the extent that an amount to be paid by AR to ADLC pursuant to Section 11.2.3 hereof is deferred by ADLC, the amount so deferred shall accrue interest compounded at the rate of six percent (6%) per annum from the date the payment would have been made in accordance with the Community Enhancement Incentive Payments Schedule but for the deferral until the date the deferred payment is actually made. Additionally, ADLC, at ADLC's election, may request the early payment of up to one half (1/2) of each of the unpaid amounts owed by AR to ADLC pursuant to the Community Enhancement Incentive Payments Schedule except the amount due on or before July 1, 2065 (Four Million Five Hundred Thousand and No/100ths Dollars ($4,500,000.00)). All requests for early payment made by ADLC shall be

subject to and made in accordance with the terms of Section 11.4 hereof. In the event and to the extent an amount to be paid by AR to ADLC pursuant to Section 11.2.3 hereof is requested early by ADLC, the amount so requested shall, after adjustment for inflation or deflation, as the case may be, in accordance with this Section 11.2, be discounted at the rate of nine percent (9%) per annum from the date the payment or payments would have been made in accordance with the Community Enhancement Incentive Payments Schedule but for the request for early payment until the date the early payment is actually made.

Section 11.3. Authorized Uses of Community Enhancement Trust Account Funds. All funds provided to ADLC by AR for deposit into the Community Enhancement Trust Account pursuant to Sections 11.2.1, 11.2.2 and 11.2.3 hereof shall be held in trust and may be drawn upon and used by ADLC solely and exclusively for the following purposes:

1. The funding of improvements associated with the Regional Historic Preservation Plan, including, without limitation, improvements to and restoration of buildings and other historic structures within the Site and the installation of recreational and historical interpretive features at historic locations.

2. The funding of community and economic development projects within the Site including, without limitation, (i) reimbursement of incremental increased development costs incurred by developers on or with respect to real property owned by ADLC within the Site; and (ii) the provision of financial assistance to support development within Waste Management Areas.

3. The funding of Golf Course Costs, but only in the event and to the extent that the funds provided to ADLC pursuant to Article X hereof are not adequate.

All funds provided to ADLC by AR for deposit into the Community Enhancement Trust Account pursuant to Section 11.2.4 hereof shall be held in trust and may be drawn upon and used by ADLC solely and exclusively for the purpose of paying the charges, expenses, fees and other costs reasonably incurred by ADLC for the development and operation of the Community Enhancement Program.

Section 11.4. Community Enhancement Deferral/Early Disbursement Requests. In order to defer payments or to secure early payments subject to and in accordance with the terms of Section 11.2 hereof, ADLC shall submit Community Enhancement Deferral/Early Disbursement Requests to AR. ADLC may request disbursement of an amount deferred pursuant to Section 11.2 hereof, together with accrued interest thereon, at any time after the date of the deferral. ADLC, however, shall not be authorized or permitted to request an early payment pursuant to Section 11.2 hereof until after the Consent Decree is approved by the court and entered as a final judgment. ADLC shall also not be authorized or permitted to request an early payment pursuant to Section 11.2 hereof at any time during which ADLC and/or Golf Course Authority are in Default. AR shall pay ADLC the amount requested by way of an authorized Community Enhancement Deferral/Early Disbursement Request within sixty (60) days of AR's receipt of the Community Enhancement Deferral/Early Disbursement Request.

Section 11.5. **Community Enhancement Accounting Reports**. During the term of this Agreement, ADLC shall prepare and provide a Community Enhancement Accounting Report to AR within ninety (90) days after the end of the first Fiscal Year and each subsequent Fiscal Year.

Section 11.6. **Books of Record; Inspection and Audit**. ADLC shall keep, or cause to be kept, proper books of record separate from all other records of ADLC, in which complete and correct entries shall be made of all transactions relating to the Community Enhancement Trust Account. Such books of record shall be at all times during business hours subject to the inspection and audit of AR, at its expense.

ARTICLE XII.

INSURANCE

Section 12.1. **ADLC**. During the term of this Agreement, ADLC shall provide and continuously maintain in effect the types and amounts of insurance set forth in the ADLC Certificate of Insurance. The amounts of insurance required under this Section 12.1 shall be increased, as appropriate, in the event and to the extent that the limitations on ADLC's liability for damages in tort, as currently set forth in Mont. Code Ann. § 2-9-108, are increased.

Section 12.2 **Golf Course Authority**. During the term of this Agreement, Golf Course Authority shall provide and continuously maintain in effect the types and amounts of insurance set forth in the Golf Course Authority Certificate of Insurance. Golf Course Authority hereby acknowledges that the insurance required under this Section 12.2 is based upon insurance available in the market as of the Effective Date of this Agreement and that the policy limits for such insurance are minimum amounts. AR may require additional or different types of insurance coverages from time to time to reflect the current insurance market for similar activities and higher minimum limits to adjust for such factors as inflation and/or the nature and extent of the activities being performed.

Section 12.3. **Contractors**. During the term of this Agreement, in the event ADLC or Golf Course Authority use one or more contractors to perform any actions required pursuant to this Agreement, ADLC and the Golf Course Authority shall require such contractor(s) to purchase and maintain in effect, at all times during the contractor's performance of the actions, the following minimum insurance with insurance companies reasonably satisfactory to AR: (i) Workers' Compensation Insurance in compliance with all statutory limits; (ii) Employer's Liability Insurance with a limit of not less than $1,000,000 per accident; (iii) Commercial or General Liability Insurance, including coverage for premises and operations, contractual liability, completed operations, with limits as required by law or with a combined single limit of not less than $1,000,000 per occurrence, whichever is greater; (iv) Automobile Liability Insurance (including owned, non-owned, and hired vehicles) with limits as required by law or with a combined single limit for bodily injury, death, and property damage of not less than $1,000,000 per occurrence, whichever is greater, (v) Excess Liability Insurance above said employer's liability, commercial or general liability, and automobile liability insurance with a combined single limit for bodily injury, death, and property damage of not less than $4,000,000

per occurrence/aggregate; and (vi) Professional Liability Insurance with limits of at least $5,000,000 per claim and $5,000,000 annual aggregate (if such insurance is appropriate taking into account the nature of the activities being performed by the contractor. ADLC and Golf Course Authority hereby acknowledge that the insurance required of contractors under this Section 12.3 is based upon insurance available in the market as of the Effective Date of this Agreement and that the policy limits for such insurance are minimum amounts. AR may require additional or different types of insurance coverages from time to time to reflect the current insurance market for similar activities and higher minimum limits to adjust for such factors as inflation and/or the nature and extent of the activities being performed.

Section 12.4. Additional Insurance Requirements The following additional terms shall apply with respect to each of the policies of insurance required pursuant to Section 12.1, 12.2 and 12.3 hereof:

1. Except for Workers' Compensation Insurance, AR shall be named as an additional insured in each of the policies, and the additional insured endorsement shall state that coverage is afforded the additional insured with respect to claims and occurrences arising out of work or operations performed by or on behalf of ADLC and/or Golf Course Authority, as applicable.

2. Upon request at anytime, ADLC and Golf Course Authority shall furnish or require that contractor(s) furnish certificates of insurance to AR evidencing the required insurance.

3. Each certificate of insurance shall provide that at least 30 days' prior written notice shall be given AR in the event of cancellation or material change in the policies.

4. All certificates of insurance must contain reference to endorsements (i.e., additional insureds, waiver of subrogation, etc.) as required pursuant to this Section 12.4.

5. In no event shall any failure of AR to receive certificates of insurance or to demand receipt of such certificates be construed as a waiver by AR of any obligation to obtain or to require contractors to obtain insurance.

6. Upon request at any time, ADLC and Golf Course Authority shall furnish and require contractor(s) to furnish AR with copies of policies for the required insurance.

ARTICLE XIII.

RELEASES AND COVENANTS NOT TO SUE

Section 13.1. Release and Covenant Not to Sue of ADLC and Golf Course Authority.

1. Subject to and without waiving the rights reserved in Sections 13.1.2 and 13.1.3 hereof, for and in consideration of the mutual covenants and promises contained herein, ADLC

and Golf Course Authority agree to unconditionally, fully and forever release and discharge, and covenant not to sue AR and AR's shareholders, directors, officers, employees, attorneys, affiliates, parents and agents from and for any and all known or unknown, present and future, claims, demands, losses, damages and any and all actions and rights of action of any kind or nature arising out of or relating to: (i) Environmental Conditions within the Site; and (ii) all matters addressed in this Agreement.

2. Nothing in Section 13.1.1 hereof shall release, or discharge AR or its contractors, from any claims, demands, losses, damages or any actions or rights of action of any kind or nature which may arise after the Effective Date as a result of any exacerbation of any Environmental Conditions within the Site by AR or its contractors.

3. Nothing in Section 13.1.1 hereof shall release ADLC's and/or Golf Course Authority's right and remedies against AR under Article XIV hereof.

Section 13.2. <u>Release and Covenant Not to Sue of AR</u>.

1. Subject to and without waiving the rights reserved in Sections 13.2.2 and 13.2.3 hereof, for and in consideration of the mutual covenants and promises contained herein, AR agrees to unconditionally, fully and forever release and discharge, and covenant not to sue ADLC and Golf Course Authority from and for any and all known or unknown, present and future, claims, demands, losses, damages and any and all actions and rights of action of any kind or nature arising out of or relating to: (i) Environmental Conditions within the Site; and (ii) all matters addressed in this Agreement.

2. Nothing in Section 13.2.1 hereof shall release, or discharge ADLC, Golf Course Authority or their respective contractors, from any claims, demands, losses, damages or any actions or rights of action of any kind or nature which may arise after the Effective Date as a result of any exacerbation of any Environmental Conditions within the Site by ADLC, Golf Course Authority or their contractors.

3. Nothing in Section 13.2.1 hereof shall release AR's right and remedies against ADLC and/or Golf Course Authority under Article XIV hereof or AR's rights and remedies against ADLC and/or Golf Course Authority under the Covenant Deeds.

Section 13.3. <u>Survival of Releases and Covenants Not to Sue</u>. Notwithstanding any other term or condition of this Agreement, Sections 13.1 and 13.2 hereof shall survive the termination or expiration of this Agreement, in whole or in part, pursuant to Sections 14.4, 14.7, 14.8, 14.9 and/or 16.1 hereof.

ARTICLE XIV.

REMEDIES

Section 14.1. <u>ADLC Default and/or Golf Course Authority Default</u>. In the event an ADLC Default and/or a Golf Course Authority Default occurs, the following terms shall apply:

1. AR, at its election, shall have the right to (i) remedy the Default pursuant to Section 14.3 hereof, (ii) proceed with mediation and, if necessary, arbitration pursuant to Sections 14.5 and 14.6 hereof, and/or (iii) terminate this Agreement, in whole or in part, pursuant to the provisions of Sections 14.4 or 14.7 hereof.

2. In the event an ADLC Default and/or a Golf Course Authority Default occurs with respect to the performance of the Golf Course Superfund O&M Obligations and/or the Golf Course O&M Obligations, AR, at its election, shall have the additional right to require ADLC to convey the Golf Course Amended Parcel to AR or its designee pursuant to Section 14.4 hereof.

3. Prior to proceeding with any of the remedies available to AR pursuant to Sections 14.1.1 and 14.1.2 hereof, AR shall provide ADLC with ten (10) days written notice of the remedies which AR intends to pursue; provided, however, such notice shall not preclude or limit the subsequent exercise of any other remedy of AR hereunder.

4. In the event that ADLC and/or Golf Course Authority dispute the occurrence of the Default, ADLC and/or Golf Course Authority, as applicable, shall provide written notice of the dispute to AR within ten (10) days of receipt of any election notice from AR pursuant to Section 14.13 hereof. In the event the occurrence of the Default is so disputed by ADLC and/or Golf Course Authority, the Parties, as applicable, shall proceed with mediation and, if necessary, arbitration pursuant to Sections 14.5 and 14.6 hereof.

5. In the event the Parties, as applicable, proceed with mediation and, if necessary, arbitration, the rights of AR under Sections 14.4 and 14.7 hereof shall not be exercised until after a final decision of the arbitrator that contains specific findings of fact which confirm the occurrence of the Default.

Section 14.2. <u>AR Default</u>. In the event an AR Default occurs, the following terms shall apply:

1. ADLC and/or Golf Course Authority shall have the right to proceed with mediation and, if necessary, arbitration pursuant to Sections 14.5 and 14.6 hereof.

2. Additionally, in the event an AR Default occurs with respect to the any payment of funds pursuant to the terms of this Agreement, then ADLC and/or Golf Course Authority shall have the right to require the sum which is the subject of the AR Default to be paid from the relevant financial assurance instrument pursuant to Article XV hereof.

3. In the event that ADLC and/or Golf Course Authority are unable to obtain payment from relevant financial assurance instrument pursuant to Section 14.2.2 hereof within ninety (90) days after the AR Default, then ADLC and/or Golf Course Authority shall have the right to terminate this Agreement pursuant to the provisions of Section 14.7 hereof.

4. Prior to proceeding with any of the remedies available to ADLC and/or Golf Course Authority pursuant to Sections 14.2.1, 14.2.2 and hereof, ADLC and/or Golf Course Authority, as applicable, shall provide AR with ten (10) days written notice of the remedies which ADLC and/or Golf Course intend to pursue; provided, however, such notice shall not preclude or limit the subsequent exercise of any other remedy of ADLC and/or Golf Course Authority hereunder.

5. In the event that AR disputes the occurrence of the Default, AR shall provide written notice of the dispute to ADLC and/or Golf Course Authority, as applicable, within ten (10) days of receipt of any election notice from ADLC and/or Golf Course Authority pursuant to Section 14.2.4 hereof. In the event the occurrence of the Default is so disputed by AR, the Parties, as applicable, shall proceed with mediation and, if necessary, arbitration pursuant to Sections 14.5 and 14.6 hereof.

6. The rights of ADLC and/or Golf Course Authority under Section 14.7 hereof shall not be exercised until after a final decision of the arbitrator that contains specific findings of fact which confirm the occurrence of the AR Default. Additionally, in the event that the arbitrator's final decision finds that an AR Default did not occur, or that the sum in Default is less the sum that has been paid from financial assurance instruments under Article XV hereof, then ADLC and/or Golf Course Authority shall have an obligation to reimburse AR for all sums which were improperly collected from any financial assurance instrument pursuant to Article XV of this Agreement.

Section 14.3. <u>AR Option to Remedy ADLC Default and/or Golf Course Authority Default</u>. In the event of an ADLC Default and/or Golf Course Authority Default occurs, AR, at its election, shall have the right to take such actions and incur such charges, expenses, fees and other costs (including attorneys' fees, expert fees and other professional fees) as may be necessary to remedy such Default. Notwithstanding any dispute regarding the occurrence of such Default, AR shall have the right to proceed with actions to remedy the Default at any time after delivery of an election notice to ADLC and/or Golf Course Authority, as applicable, pursuant to Section 14.1 hereof. In the event AR exercises its right to remedy a Default pursuant to this Section 14.3, AR shall have the right to submit to ADLC and/or Golf Course Authority, as applicable, on a monthly basis through and including completion of the actions necessary to remedy the Default, a demand for payment of the full amount of all charges, expenses, fees and other costs incurred by AR in remedying the Default, including, without limitation, the charges, expenses, fees and other costs permitted under Section 14.14 hereof. Such charges, expenses, fees and other costs reasonably incurred by AR to remedy a Default shall accrue interest at the rate of six percent (6%) per annum from the date AR submits a demand for payment of the charges, expenses, fees and other costs to ADLC and/or Golf Course Authority pursuant to this Section 14.3 until paid. Within thirty (30) days of ADLC's and/or Golf Course Authority's receipt of a demand pursuant to this Section 14.3, ADLC and/or Golf Course Authority, as

applicable, shall either (i) pay AR the full amount of the demand or (ii) notify AR that ADLC and/or Golf Course Authority dispute the demand and wish to submit the dispute to mediation and, if necessary, arbitration pursuant to the terms and conditions of Sections 14.5 and 14.6 hereof. The rights of ADLC and/or Golf Course Authority to dispute a demand for payment under this Section 14.3 shall be in addition to the rights of ADLC and/or Golf Course Authority to dispute the occurrence of a Default pursuant to Section 14.1 hereof. In the event and to the extent that AR is the prevailing party in any arbitration commenced pursuant to this Section 14.3, ADLC and/or Golf Course Authority, as applicable, shall be obligated to repay AR the total amount awarded by the arbitrator, on demand. In the event ADLC and /or Golf Course Authority fail to repay AR, on demand, AR shall have the right to offset the full amount owed by ADLC and/or Golf Course Authority against any funding that would otherwise be owed by AR to ADLC pursuant to Article XI hereof.

Section 14.4. <u>Election to Transfer Golf Course.</u>

1. In the event (i) an ADLC Default and/or Golf Course Authority Default occurs with respect to the performance of the Golf Course Superfund O&M Obligations and/or the Golf Course O&M Obligations or (ii) a Work Takeover occurs with respect to any Golf Course Superfund O&M Obligations, AR, at AR's election, shall have the right to require ADLC to convey the Golf Course Amended Parcel to AR or its designee as provided in this Section 14.4. Subject to the rights of ADLC and/or Golf Course Authority to dispute the occurrence of such Default pursuant to Section 14.1 hereof, in the event AR elects to exercise its right under this Section 14.4.1, AR shall provide ADLC and Golf Course Authority with an election notice which shall, at a minimum, (i) refer to this Agreement, and (ii) specify the date upon which the conveyance shall be made (which shall not be less than thirty (30) days from the date of the exercise notice). In the event ADLC does not dispute the occurrence of the Default, then, on the date specified in the exercise notice, ADLC shall convey all of ADLC's rights, title and interest in the Golf Course Amended Parcel to AR, free and clear of any liens or encumbrances of any nature, other than those liens and encumbrances, if any, burdening the Golf Course Amended Parcel on the date of this Agreement. In the event ADLC disputes the occurrence of the Default, the conveyance shall not occur until thirty (30) days after a final decision of the arbitrator that contains specific findings of fact which confirm the occurrence of the ADLC Default and/or Golf Course Authority Default.

2. In the event (i) an ADLC Default and/or Golf Course Authority Default occurs with respect to the performance of the Golf Course Superfund O&M Obligations and/or the Golf Course O&M Obligations or (ii) the rights and obligations of the Parties with respect to the Golf Course expire pursuant to the terms of Section 16.1.2 hereof, then ADLC, at ADLC's election, shall have the right to require AR to accept conveyance of the Golf Course Amended Parcel from ADLC or its designee as provided in this Section 14.4.2. In the event ADLC elects to exercise its right under this Section 14.4.2, ADLC shall provide AR with an election notice which shall, at a minimum, (i) refer to this Agreement, and (ii) specify the date upon which the conveyance shall be made (which shall not be less than thirty (30) days from the date of the exercise notice). On the date specified in the exercise notice, ADLC shall convey all of ADLC's rights, title and interest in the Golf Course Amended Parcel to AR, free and clear of any liens or encumbrances

of any nature, other than those liens and encumbrances, if any, burdening the Golf Course Amended Parcel on the date of this Agreement.

3. The conveyance of the Golf Course Amended Parcel by ADLC to AR pursuant to Section 14.4.1 or 14.4.2 hereof shall be made by Quitclaim Deed that is satisfactory to AR in form and substance. The conveyance of the Golf Course Amended Parcel shall include the Golf Course Water rights and any and all buildings, structures or other improvements on the Golf Course Amended Parcel as of the date of the exercise notice including, without limitation, the Golf Course. ADLC shall also execute any other documents reasonably requested by AR to fully consummate the conveyance of the Golf Course Amended Parcel contemplated by this Section 14.4.3. In the event the Golf Course Amended Parcel is conveyed by AR or ADLC pursuant to Section 14.4 hereof, the conveyance shall be deemed a partial termination of this Agreement and the terms of Section 14.10 shall apply so as to require ADLC to return all funds remaining in the Golf Course Trust Account as of date of the conveyance of the Golf Course Amended Parcel to AR, including all accrued interest and income earned thereon, within ten (10) days of the conveyance. From and after the conveyance of the Golf Course Amended Parcel by ADLC to AR pursuant to this Section 14.4, ADLC shall have no liability or responsibility to AR under this Agreement or otherwise with respect to the Golf Course Superfund O&M Obligations, the Golf Course O&M Obligations and/or the Golf Course Amended Parcel. ADLC, however, shall remain solely liable and responsible to other Persons and Governmental Entities for any and all obligations related to the Golf Course Superfund O&M Obligations, the Golf Course O&M Obligations and/or Golf Course Amended Parcel arose or accrued during the time of ADLC's ownership of the Golf Course Amended Parcel, or any interest therein. ADLC shall indemnify, defend and hold harmless AR from and against any claims of any nature arising out of, or related to, the Golf Course Superfund O&M Obligations, the Golf Course O&M Obligations and/or Golf Course Amended Parcel which arose or accrued during ADLC's ownership of the Golf Course Amended Parcel, or any interest therein. Such indemnity shall survive the conveyance of the Golf Course Amended Parcel by ADLC to AR pursuant to this Section 14.4.

Section 14.5. <u>Mediation</u>. In the event any Party elects to proceed with mediation and, if necessary, arbitration pursuant to Sections 14.1 or 14.2 hereof, or in the event ADLC and/or Golf Course Authority elect to proceed with mediation and, if necessary, arbitration pursuant to Sections 14.3 or 14.4.1 hereof, then, within thirty (30) days after the effective date of any notice provided pursuant to Sections 14.1, 14.2, 14.3 or 14.4.1 hereof, each of the Parties shall designate a senior-level representative, who shall collectively endeavor in good faith to resolve the Default or other dispute on a reasonable basis. Upon agreement of the Parties, a mediator with expertise in the subject matter may be selected to assist in this process. The costs and fees of the mediator shall be shared equally by the Parties. In the event a Default or other dispute is not resolved within sixty (60) days (or such longer time as may be agreed to by the Parties) after the effective date of any notice of intent to proceed with mediation and, if necessary, arbitration, the Parties shall proceed with arbitration pursuant to Section 14.6 hereof. A Party's election to proceed with mediation and, if necessary, arbitration pursuant to Section 14.1 and 14.2 hereof shall not serve to delay or stay the Parties timely performance of their respective duties and obligations under this Agreement.

Section 14.6. <u>Arbitration Procedures and Choice of Law</u>. Defaults and other disputes not resolved by the Parties pursuant to the mediation provisions of Section 14.5 hereof will be resolved by arbitration pursuant to the following terms:

1. The Party initiating the arbitration shall give written notice to the other Party or Parties.

2. The arbitration shall be conducted before a single arbitrator who shall be an individual possessing substantial professional experience in the subject matter of the dispute and, unless otherwise agreed by the Parties in writing, shall be a lawyer licensed to practice in the State of Montana.

3. In the event the Parties can agree, the arbitrator shall be selected by the consent of the Parties. In the event the Parties cannot agree, then, within thirty (30) days after the notice initiating the arbitration, the Parties shall each nominate an individual who is qualified to serve as the arbitrator and the two individuals so nominated shall select a qualified individual to serve as the arbitrator.

4. The Parties shall cooperate with the arbitrator to permit the scheduling of a hearing so as to complete any such arbitration within one hundred twenty (120) days of commencement, except if the arbitrator determines for good cause that a longer period is required. The Parties shall have no less than thirty (30) days' notice prior to the commencement of any hearing.

5. No adjournment of any hearing shall exceed thirty (30) days in length, nor shall there be more than one (1) such adjournment without the written consent of the Parties.

6. Except as otherwise provided in this Section 14.6, the arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. 1-16, to the exclusion of any provision of State law inconsistent therewith, and judgment upon the award rendered by the single arbitrator may be entered by any court having jurisdiction thereof.

7. The arbitrator shall apply the substantive law of the State of Montana exclusive of its conflict of law rules.

8. Any award rendered by the single arbitrator shall contain specific findings of fact and conclusions of law on which the award is based and the Parties shall have the right to appeal all issues of law to any court having jurisdiction.

9. In the event the occurrence or continuation of a Default is disputed by a Party, the arbitrator is specifically authorized to resolve the dispute. Any decision of the arbitrator relating to the occurrence or non-occurrence of a Default shall contain specific findings of fact and conclusions of law on which the decision is based and the Parties shall have the right to appeal all issues of law to any court having jurisdiction.

10. The arbitrator is specifically authorized to grant appropriate relief as may be requested, explicitly including specific performance or orders to any Party to perform the Agreement. The Parties explicitly agree that the arbitrator may award specific performance of any kind or character notwithstanding the fact that damages may accord complete relief, and the arbitrator may award both specific performance and damages in order to provide a Party with complete relief.

11. The Parties agree that the prevailing Party in any dispute resolved by arbitration shall be entitled to an award of its reasonable legal fees and expenses incurred in the arbitration, including attorneys' fees, expert fees, other professional fees and fees of arbitration.

Section 14.7. Termination by Non-Defaulting Party. Subject to the rights of a defaulting Party to dispute the occurrence of a Default pursuant to Sections 14.1 and 14.2 hereof, in the event a Default occurs, the non-defaulting Party, at its election, shall have the right to terminate this Agreement. In the event a non-defaulting Party elects to exercise its right under this Section 14.7, the election notice required pursuant to Section 14.1 hereof shall specify the date of the termination. In the event the occurrence of the Default is disputed pursuant to Sections 14.1 or 14.2 hereof, the termination shall not be effective until after a final decision of the arbitrator that contains specific findings of fact which confirm the occurrence of the Default. The termination of this Agreement by a non-defaulting Party pursuant to this Section 14.7 shall serve as a termination of this Agreement as to all Parties.

Section 14.8. Termination by AR for Cause. Notwithstanding any other term or condition of this Agreement, AR, in its sole discretion, shall have the absolute right to elect to terminate this Agreement in the event that: (i) any provision of the CNSA is terminated or the covenant not to sue provided to ADLC and Golf Course Authority thereunder is deemed null and void; (ii) a Work Takeover occurs; (iii) the Consent Decree referenced in Section 16.3 is not executed or approved by the court and entered as a final judgment within five (5) years of the Effective Date; or (iv) the Consent Decree is terminated by court order, which may include a court order finding that all or significant portions of the Consent Decree are unenforceable. Unless otherwise agreed by the Parties in writing, an election by AR to terminate this Agreement pursuant to this Section 14.8 will not be effective until thirty (30) days after AR's transmittal of written notice to ADLC of AR's election to terminate.

Section 14.9. Partial Termination by AR without Cause. Notwithstanding any other term or condition of this Agreement, AR, in its sole discretion, shall have the absolute right to elect to partially terminate this Agreement without cause at any time on or after the twenty fourth (24th) anniversary of the Effective Date of this Agreement. Unless otherwise agreed by the Parties in writing, an election by AR to partially terminate this Agreement pursuant to this Section 14.9 will not be effective until one (1) year after AR's transmittal of written notice to ADLC of AR's election to partially terminate. Subject to the terms of Section 14.11 hereof, in the event AR elects to partially terminate this Agreement pursuant to this Section 14.9, the rights and obligations of AR and ADLC under Articles III, IV, VII, VIII, IX, XI and XV (except for any continuing obligation of AR to provide funding for the Golf Course under Article X hereof) of this Agreement shall have no further force or effect from and after the date of the partial termination. Additionally, the obligations of ADLC under the Conveyance Agreement Amended

Parcels Quitclaim Deeds other than the Golf Course Amended Parcel Quitclaim Deed to perform any operation and maintenance activities pursuant to the ADLC Parcels Superfund O&M Plan shall have no further force or effect from and after the date of the partial termination. Following AR's exercise of its rights and prior to the date of a partial termination of this Agreement pursuant to this Section 14.9, ADLC and AR shall meet and confer. It is understood that during such meeting and conference, AR, in its sole discretion, may make proposals for the modification of this Agreement in lieu of the termination of this Agreement and that such proposals may include, without limitation, alternatives to the funding arrangements set forth in this Agreement. It is further understood that ADLC shall be under no obligation to accept any alternative funding arrangement proposed by AR during or as a result of such meeting and conference or to cooperate with AR in any manner whatsoever with respect to any proposed alternatives to the institutional controls contemplated under the ICIAP. In the event a partial termination of this Agreement pursuant to this Section 14.9 occurs, ADLC also hereby expressly reserves the right to advocate for whatever amendments to the RODs that ADLC may deem appropriate.

Section 14.10. Return of Funds upon Termination. In the event this Agreement is terminated by any of the Parties pursuant to Section 14.7 hereof, all funds remaining in the Trust Accounts as of the date of the termination, including all accrued interest and income earned thereon, shall be returned to AR within ten (10) days of the date of the termination. In the event this Agreement is terminated by AR pursuant to Sections 14.8 or 14.9 hereof, all funds remaining in the Institutional Controls Program Trust Account and the ADLC Parcels Superfund O&M Trust Account as of the date of the termination, shall be returned to AR within ten (10) days of the date of the termination.

Section 14.11. Retention and Payment of Funds upon Partial Termination. In the event of a partial termination of this Agreement by AR pursuant to Section 14.9 hereof, all funds remaining in the Community Enhancement Trust Account as of the date of the partial termination shall be retained by ADLC. Additionally, AR shall pay ADLC, within sixty (60) days after the date of the partial termination, an amount equal to the net present value of the remaining funds that would have been paid by AR to ADLC for deposit into the Community Enhancement Trust Account pursuant to 11.2 hereof but for the partial termination. For purposes of this Section 14.11, the net present value of the remaining funds that would have been paid by AR to ADLC shall be calculated by first adjusting the amounts of the remaining funds that would have been paid by AR to ADLC but for the partial termination in order to account for inflation or deflation, as the case may be, in an amount equal to the percentage difference between the CPI Base Figure and the CPI Adjustment Figure and then discounting such adjusted amounts at the rate of nine percent (9%) per annum from the date the payments would have been made in accordance with Section 11.2 hereof until the date the payment is actually made.

Section 14.12. Remedies Cumulative. The remedies provided in this Article XIV are cumulative. The exercise of one remedy by a Party shall not preclude or limit the exercise of any other remedy or remedies or be deemed to be an election of remedies.

Section 14.13. Delay; Notice. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a

waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle any Party to exercise any remedy reserved to it in this Agreement it shall not be necessary to give any notice, other than such notice as may be required in this Agreement or by law.

Section 14.14. Agreement to Pay Fees and Expenses. In the event any Party to this Agreement should Default under any of the provisions hereof and a non-Defaulting Party should employ attorneys, experts, or other professionals or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the Defaulting Party herein contained, the Defaulting Party agrees that it will on demand therefore pay to the non-Defaulting Party or Parties the reasonable fees of such attorneys, experts, or other professionals and such other costs and expenses reasonably so incurred by the non-Defaulting Party or Parties. ADLC and Golf Course Authority may not draw upon any of the Trust Accounts established pursuant to this Agreement to pay any such fees of such attorneys, experts, or other professionals or any such other costs and expenses.

Section 14.15. No Additional Waiver Implied by One Waiver. In the event any Default is waived by a Party, such waiver shall be limited to the particular Default so waived and shall not be deemed to waive any other Default hereunder.

Section 14.16. Force Majeure The provisions of this Article are subject to the following limitation: if by reason of Force Majeure a Party is unable in whole or in part to carry out its duties or obligations under this Agreement, such Party shall not be deemed in Default during the continuance of such inability; provided that (i) such Party notifies the other Party in writing that a Force Majeure event has occurred and such event is inhibiting the Party's ability to perform, (ii) such Party's inability to perform is of no greater scope and of no greater duration than is required by the Force Majeure, (iii) such Party uses its best efforts to remedy its inability to carry out all or any part of its obligations and keeps the other Party fully informed as to such efforts, and (iv) the Force Majeure was not caused or aggravated by any negligent or intentional acts, errors or omissions of such Party or any failure by such Party to comply with any applicable law. In the event that a Party disputes the occurrence of a Force Majeure, such party shall provide written notice to the Party claiming a Force Majeure, as applicable, within ten (10) days of receipt of any notice of a Force Majeure pursuant to this Section 14.16. In the event a Force Majeure is so disputed, the Parties, as applicable, shall proceed with mediation and, if necessary, arbitration pursuant to Sections 14.5 and 14.6 hereof.

Section 14.17. Specific Performance. The remedy of specific performance shall be available to the Parties to enforce the remedies set forth in this Article XIV to the fullest extent permitted by applicable laws.

Section 14.18. Consequential Damages. Except as otherwise provided in this Article XIV, in the event this Agreement is terminated, in whole or in part, pursuant to Sections 14.4, 14.7, 14.8 or 14.9 hereof, the Parties shall have no claim in law or equity for damages or compensation of any kind (including, without limitation, compensatory damages and punitive damages) for, or based on such termination.

ARTICLE XV.

FINANCIAL ASSURANCES

Section 15.1. <u>Form of Financial Assurance</u>. To ensure that AR meets its financial obligations under this Agreement, AR shall obtain financial assurance for the benefit of ADLC using one or more of the types of financial assurance methods listed below:

1. A surety bond guaranteeing to make the payments that AR becomes obligated to make under this Agreement, to be issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;

2. An irrevocable letter of credit issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;

3. A trust fund established for the benefit of ADLC and administered by a trustee with authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;

4. A policy of insurance naming ADLC as a beneficiary, to be issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction(s) and whose insurance operations are regulated and examined by a federal or state agency;

5. A demonstration that AR meets the relevant financial test criteria of 40 C.F.R. § 264.143(f) and related reporting requirements; or

6. A guarantee to make the payments that AR becomes obligated to make under this Agreement, to be issued by one of the following: (1) a direct or indirect parent company of AR; or (2) a company that has a "substantial business relationship" (as defined in 40 C.F.R. § 264.141(h)) with AR; provided, however, that any company providing such a guarantee must meet the relevant financial test criteria of 40 C.F.R. § 264.143(f) and related reporting requirements.

AR shall have the right to choose one or more of the six financial assurance methods listed in this Sections 15.1.1. through 15.1.6, and AR shall have the right to use multiple methods, and multiple financial assurance instruments of the same method, under this Agreement.

Section 15.2. <u>Amount of Financial Assurance</u>. Within ninety (90) days after the Effective Date, AR shall obtain financial assurance in the following initial amounts:

1. $_____ for the Institutional Controls Program Funding under Article VIII hereof;
2. $_____ for the ADLC Parcels Superfund O&M Funding under Article IX hereof;
3. $_____ for the Golf Course Funding under Article X hereof; and
4. $_____ for the Community Enhancement Funding under Article XI hereof.

Section 15.3. <u>Annual Adjustments to Amount of Financial Assurance</u>. On or before each anniversary of the Effective Date, AR shall arrange to increase or decrease the amount of financial assurance that it provides to ADLC under this Agreement, pursuant to the terms of Sections 15.3.1. through 15.3.3 below.

1. The amount of the financial assurance for the funding obligations addressed in Section 15.2.1 through 15.2.3 hereof shall be adjusted annually to account for inflation, deflation, and any other changes in the amounts due under this Agreement that AR and ADLC may agree upon in writing, and that EPA may require, if EPA has been named as a beneficiary under Section 15.5 of this Agreement.

2. The amount of financial assurance for the funding obligations addressed in Section 15.2.4 hereof shall be adjusted each year to reflect payments that have been made, as well as any payments that have been deferred pursuant to Section 11.2, including accrued interest on the deferral.

3. In the event AR becomes aware of information indicating that any financial assurance instrument provided under this Agreement no longer meets the requirements of this Agreement, then AR shall promptly obtain a replacement financial assurance instrument that satisfies the requirements of this Agreement.

Section 15.4. <u>ADLC Access to Financial Assurance</u>. In the event of an AR Default on a payment obligation due under this Agreement, ADLC may seek to recover the sums that are in default from the relevant financial assurance instruments in accordance with the following terms:

1. To obtain financial assurance, ADLC shall provide a written "Notice of AR Default and Request for Financial Assurance Payment" to AR and to the provider of the relevant financial assurance instrument. The Notice of AR Default and Request for Financial Assurance Payment shall include: (i) the date when the AR Default occurred, (ii) the amount of payment(s) that are in default, (iii) the trust account which the financial assurance provider should deposit funds into, and (iv) a copy of the written notice of default that ADLC provided to AR under the definition of "AR Default" Set forth in Section 1.1.23.

2. Within ten (10) business days of receipt of the Notice of AR Default and Request for Financial Assurance, AR or its authorized representative shall contact the provider of the relevant financial assurance instrument to confirm the existence and amount of payments that are subject to the AR Default, and the trust account that is designated to hold those payments. AR shall also provide any other information that may reasonably be required to ensure prompt payment of all sums that are subject to the AR Default, pursuant to the terms of the relevant financial assurance instrument(s).

3. In the event that AR disputes the Notice of AR Default and Request for Financial Assurance Payment, AR may elect to mediate or arbitrate the dispute pursuant to Sections 14.5 and/or 14.6 hereof. Mediation and arbitration shall not delay any payment that would otherwise be made to ADLC in accordance with Sections 15.4.1 and 15.4.2 hereof. However, in the event the final arbitration decision finds there was no AR Default, or finds the amount paid into a trust account pursuant to Sections 15.4.1 and 15.4.2 exceeds the amount subject to the AR Default,

then AR shall have a right to recover the sum paid in excess of the AR Default, and AR's remedies shall include, but are not limited to, a request to return excess funds from the relevant trust account, and the right to use the excess funds to offset and reduce the amount of future payment obligations that AR may owe to ADLC under this Agreement.

Section 15.5. Addition of EPA as a Beneficiary. AR shall have the right to add EPA as a beneficiary to financial assurance instruments that fund the performance of the Institutional Controls Program Obligations, the ADLC Parcels Superfund O&M Obligations, and the Golf Course Superfund O&M Obligations. If AR elects to name EPA as a beneficiary under this Section 15.5, AR shall provide ADLC with at least thirty (30) days written notice of changes to the financial assurance instruments that may be required for EPA's benefit, and an opportunity to comment on these changes. AR will use reasonable best efforts to ensure that in the event of an AR Default, ADLC will have the opportunity to use payments from the relevant financial assurance instruments to fund ADLC's continued performance of the Institutional Controls Program Obligations, the ADLC Parcels Superfund O&M Obligations, and the Golf Course Superfund O&M Obligations.

XVI.

MISCELLANEOUS PROVISIONS

Section 16.1. Term

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1. General. Subject to the additional term limits set forth in this Section 16.1.2 hereof with respect to the Parties' rights and obligations relating to the Golf Course under Articles V and X hereof and subject to the rights of the Parties to terminate this Agreement, in whole or in part, pursuant to Sections 14.4, 14.7, 14.8 and 14.9 hereof, the term of this Agreement shall commence on the Effective Date and shall continue in effect for so long as the actions contemplated hereunder may be required in order to comply with the requirements of the RODs or the requirements of a Consent Decree to implement the remedies described in the RODs.

2. Golf Course. Subject to the rights of the Parties to terminate this Agreement, in whole or in part, pursuant to Sections 14.4, 14.7, 14.8 and 14.9 hereof, the term of this Agreement with respect to the rights and obligations of the Parties relating to the Golf Course under Articles V and X hereof shall commence on the Effective Date and, unless sooner terminated pursuant to Article XIV hereof, shall continue in effect for a period of fifty (50) years. AR shall have the right to automatically renew and extend the rights and obligations of the Parties under Articles V and X hereof for an additional term of fifty (50) years by providing ADLC with a notice of intent to renew on or before July 1, 2064. Thereafter, AR shall have a continuing right to renew and extend the rights and obligations of the Parties relating to the Golf Course Obligations under Articles V and X in fifty (50) year terms, or such other term of years as the Parties may agree to in writing, and AR shall provide ADLC with a notice of intent to renew at least two (2) years prior to the expiration of the then 50 year term, or the alternative term of years which the Parties have agreed to in writing. The Parties rights and obligations

relating to the Golf Course under Articles V and X shall have no further force or effect in the event AR fails to renew and the term of years specified in this Section 16.1.2 expires, except that the Parties rights and obligations under Sections 5.4 and 14.4 hereof shall continue and AR shall have a continuing right to enter the Golf Course Amended Parcel for the purposes authorized pursuant to the Conveyance Agreement Parcels Access Agreement. In the event AR fails to renew and the term of years specified in this Section 16.1.2 expires, ADLC's obligations relating to the performance of any operation and maintenance activities pursuant to the Golf Course Superfund O&M Plan under the Golf Course Amended Parcel Quitclaim Deed shall also have no further force or effect. From and after the date of such termination, as between the Parties, AR will be responsible for the performance of any operation and maintenance activities required pursuant to the Golf Course Superfund O&M Plan.

Section 16.2. Support of Agreement. From and after the Effective Date of this Agreement, no representative of ADLC or AR will, on behalf of ADLC or AR respectively, either support or advocate any position that is materially different than or inconsistent with the terms and conditions of this Agreement.

Section 16.3. Consent Decree. Promptly after the Effective Date of this Agreement, AR shall, in good faith, seek to negotiate and execute a judicially enforceable Consent Decree with EPA and the State which is consistent with the material terms and conditions of the CNSA and this Agreement. ADLC and Golf Course Authority shall reasonably support and cooperate with AR's good faith efforts to negotiate and execute such Consent Decree.

Section 16.4. Submittals to EPA, the State and other Governmental Entities. At the time ADLC and/or Golf Course Authority provide or submits any correspondence, report or other document relating to their obligations under this Agreement to EPA, the State or any other Governmental Entity, ADLC or Golf Course Authority, as applicable, shall provide a copy to AR at its address set forth in Section 16.6 hereof for the giving of written notice to AR.

Section 16.5. Notices and Submissions. Whenever, under the terms of this Agreement, written notice is required to be given or a report or other document is required to be sent by one Party to another or to EPA or the State, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the Parties in writing. All notices, submissions, requests, demands for payment, instructions, or other documents to be given hereunder shall be in writing and shall be given by delivery in person, by e-mail transmission, or other standard forms of written communications, by overnight courier or by registered or certified mail, postage prepaid, and shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Agreement.

IF TO AR: Atlantic Richfield Company
317 Anaconda Road
Butte, Montana 59701
Attn: Benjamin Cord Harris
E-mail: Cord.Harris@bp.com

WITH A COPY TO:	BP America Legal Department Jean Martin, Esq. (or successor) 501 Westlake Park Blvd Houston, Texas 77079 E-mail: martija5@bp.com
IF TO ADLC:	Anaconda-Deer Lodge County 800 South Main Street Anaconda, Montana 59711 Attn: Chief Executive
WITH A COPY TO:	Anaconda-Deer Lodge County 800 South Main Street Anaconda, Montana 59711 Attn: County Attorney
IF TO GOLF COURSE AUTHORITY:	Old Works Golf Course, Inc. 1200 Pizzini Dr. Anaconda, Montana 59711 Attention: President

Section 16.6. **Captions**. The titles or captions of the provisions of this Agreement are merely for convenience or reference and are not representations of matters included or excluded from such provisions.

Section 16.7. **Coordination with other Agreements**. The Conveyance Agreement, the Reimbursement Agreement, the Golf Course Loan Agreement, the Institutional Controls Program MOU, the Assistance MOU and the Weed Spraying MOU shall all be deemed terminated and shall have no further force or effect as of the Effective Date. Within thirty (30) days after the Effective Date, ADLC shall pay all outstanding charges, expenses, fees and other costs reasonably incurred by ADLC pursuant to the Weed MOU prior to the Effective Date with the funding provided by AR to ADLC pursuant to the Weed MOU. ADLC shall thereafter transfer all remaining funds paid by AR to ADLC pursuant to the Weed MOU to the ADLC Parcels Superfund O&M Trust Account within ten (10) days of the establishment of the ADLC Parcels Superfund O&M Trust Account. ADLC shall also transfer all funds on deposit in the Developer Reimbursement Trust Account as of the Effective Date, together with all accrued interest and income earned thereon, into the Community Enhancement Trust Account within ten (10) days of the establishment of the Community Enhancement Trust Account. Golf Course Authority shall transfer all funds paid by AR to Golf Course Authority pursuant to the Golf Course Loan Agreement that have not yet been expended by Golf Course Authority for the purposes authorized under the Golf Course Loan Agreement as of the Effective Date to the Golf

Course Trust Account within ten (10) days of the establishment of the Golf Course Trust Account. The Second Programmatic Agreement, the Slag Supply Agreement and the South Storm Drain System Funding Agreement shall remain in full force and effect from and after the Effective Date of this Agreement and shall not be deemed to be altered or amended in any way by the terms of this Agreement. Except as otherwise provided in Section 4.1 and Article IX hereof with respect to the ADLC Parcels Superfund O&M Obligations, the terms of the Conveyance Agreement Original Parcels Quitclaim Deeds shall remain in full force and effect and shall not be deemed to be altered or amended in any way by the terms of this Agreement with respect to the portions the Conveyance Agreement Original parcels which were conveyed by ADLC to other Persons or Governmental Entities prior to the Effective Date of this Agreement.

Section 16.8. Entire Agreement. Except as otherwise provided in Section 16.7 hereof, this Agreement and all exhibits hereto shall constitute the entire Agreement and understanding between and among the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. The Parties expressly acknowledge and agree that, with regard to the subject matter of this Agreement and the transactions contemplated herein, (a) there are no oral agreements between the Parties and (b) this Agreement, including the recitals and all exhibits attached hereto, (i) embodies the final and complete agreement between the Parties, (ii) supersedes all prior and contemporaneous negotiations, offers, proposals, agreements, commitments, promises, acts, conduct, course of dealing, representations, statements, assurances and under-standings, whether oral or written, and (iii) may not be varied or contradicted by evidence of any such prior or contemporaneous matter or by evidence of any subsequent oral agreement of the Parties.

Section 16.9. Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by the Parties, the Parties shall perform, execute and/or deliver or cause to be performed, executed and/or delivered any and all other acts or deeds necessary to complete the work and/or the transactions contemplated herein.

Section 16.10. Negation of Agency Relationship. This Agreement shall not be construed to create, either expressly or by implication, the relationship of agency or partnership between the Parties. Neither Party (including such Party's agents, employees or contractors) is authorized to act on behalf of the other Party in any manner relating to the subject matter of this Agreement. Neither Party shall be liable for the acts, errors or omissions of the officers, agents, employees or contractors of the other Party entered into, committed or performed with respect to or in the performance of this Agreement.

Section 16.11. Exhibits. All exhibits attached to this Agreement are hereby incorporated into and made part of this Agreement. In the event the description set forth in the body of this Agreement of the terms and conditions of any document conflicts with the provisions of the actual document attached as an exhibit, the provisions of this Agreement shall control.

Section 16.12. No Admission of Liability. The Parties that have entered into this Agreement do not admit any liability arising out of the transactions or occurrences, or any

Environmental Conditions whatsoever, relating to the Site or as set forth in this Agreement, exhibits, index or any other record documents attached hereto or incorporated by reference. The Parties do not admit and retain the right to dispute and contest any of the factual or legal statements made in any pleadings or other documents prepared or filed in connection with the NPL Sites including, without limitation, the RODs. This Agreement, any factual or legal statements made in this Agreement, and the resulting obligations of the Parties shall not be admissible in any judicial or administrative proceeding against any of the Parties, over their objection, as evidence of liability or as an admission of any factual or legal statements made herein, but it shall be admissible in an action to enforce this Agreement.

Section 16.13. **General Reservations**. Nothing in this Agreement shall restrict or limit in any way any cause of action or other rights, whether contingent or absolute, matured or un-matured, determined or undetermined or known or unknown as of the Effective Date of this Agreement, that any of the Parties may have against any Person or Governmental Entity including, without limitation, any cause of action for contribution or indemnity against any Person or Government Entity for reimbursement of the considerations incurred or to be incurred by that Party pursuant to this Agreement.

Section 16.14. **Binding Effect; Assignment**. The rights and obligations set forth in this Agreement shall be binding on the Parties hereto and their successors and assigns. AR may assign and/or delegate any of its rights and obligations under this Agreement at any time. No assignment or delegation of any right or obligation hereunder by ADLC and/or Golf Course Authority, whether accruing prior to or after such assignment or delegation, will release ADLC and/or Golf Course Authority from any liability or obligation under this Agreement without the prior written consent of AR, which consent shall not be unreasonably withheld. No assignment or other transfer by ADLC and/or Golf Course Authority of their rights or obligations hereunder shall be effective unless and until (i) written notice thereof has been given to AR, (ii) the transferee or assignee has executed and delivered to AR a binding written agreement to perform all obligations assigned or transferred, and (iii) AR has agreed in its sole discretion and in writing to the assignment or other transfer of rights or obligations. Any attempted assignment or transfer of rights or obligations by ADLC and/or Golf Course Authority which fails to comply with the foregoing requirements will be ineffective and void. Subject to the provisions of Sections 14.8 and 16.3 hereof, this Agreement is not contingent on the entry or issuance of any consent decree, order or directive of any Governmental Entity.

Section 16.15. **Modification**. This Agreement, and the rights and the obligations of the Parties hereunder, may not be amended, altered or modified, and no rights of any Party hereunder shall be waived, unless such amendment, alteration, modification or waiver is evidenced by a written instrument executed by the Parties hereto.

Section 16.16. **No Third-Party Beneficiaries**. Except as expressly provided in this Agreement, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person or Governmental Entity (including any other potentially responsible party within the Anaconda Smelter NPL site) other than the Parties any rights (including without limitation any right of reimbursement or indemnification), benefits, or remedies of any nature whatsoever under or by reason of this Agreement.

Section 16.17. **Governing Law**. This Agreement shall be construed in accordance with and governed by the laws of Montana applicable to agreements made and to be performed wholly within such jurisdiction.

Section 16.18. **Counterparts**. This Agreement may be executed in one or more counterpart, each of which shall for all purposes be deemed to be an original and all of which together shall constitute the same instrument.

Section 16.19. **Severability**. In the event any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof, or of such provision in other respects, shall not be affected thereby.

Section 16.20. **Integration of Recitals**. All of the recitals to this Agreement are incorporated by this reference in their entirety as terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the ____ day of _____, 2016.

ATLANTIC RICHFIELD COMPANY

By: _____
Its _____

Attest: _____
Its _____

Date: _____

ANACONDA-DEER LODGE COUNTY

By: _____
Chief Executive

Attest: _____
County Clerk and Recorder

Date: _____

OLD WORKS GOLF COURSE, INC.

By: _____
President

Date: _____

Exhibit 1
(Map of Anaconda Smelter NPL Site)

Exhibit 2
(Institutional Controls Implementation and Assurance Plan)

Exhibit 3
(Institutional Controls Program Annual Performance Evaluation Report Form)

Exhibit 4
(Institutional Controls Program Initial Budget)

Exhibit 5
(ADLC Parcels Superfund O&M Plan)

Exhibit 6
(ADLC Parcels Superfund O&M Annual Performance Evaluation Report Form)

Exhibit 7
(ADLC Parcels Superfund O&M Initial Budget)

Exhibit 8
(Golf Course Superfund O&M Plan)

Exhibit 9
(Golf Course Business Plan)

Exhibit 10
(Golf Course Superfund O&M Annual Performance Evaluation Report Form)

Exhibit 11
(Development Repository O&M Plan)

Exhibit 12
(Certificate of Survey)

Exhibit 13
(Conveyance Agreement Parcels Re-conveyance Quitclaim Deeds)

Exhibit 14
(Conveyance Agreement Parcels Access Agreement)

Exhibit 15
(Drag Strip Amended Parcel Quitclaim Deed)

Exhibit 16
(East Anaconda Yard Amended Parcel Quitclaim Deed)

Exhibit 17
(Golf Course Amended Parcel Quitclaim Deed)

Exhibit 18
(Hotel Amended Parcel Quitclaim Deed)

Exhibit 19
(Mill Creek Amended Parcel Quitclaim Deed)

Exhibit 20
(Old Works Historic Trail Amended Parcel Quitclaim Deed)

Exhibit 21
(Red Sands/Arbiter Amended Parcel Quitclaim Deed)

Exhibit 22
(Stucky Ridge Amended Parcel Quitclaim Deed)

Exhibit 23
(Portion of 1982 Parcel Quitclaim Deed)

Exhibit 24
(C-Hill Parcel Conveyance Quitclaim Deed)

Exhibit 25
(C-Hill Parcel Re-conveyance Quitclaim Deed)

Exhibit 26
(Third Party Quitclaim Deed)

Exhibit 27
(Community Enhancement Deferral/Early Disbursement Request Form)

Exhibit 28
(ADLC Certificate of Insurance)

Exhibit 29
(Golf Course Authority Certificate of Insurance)

Exhibit 30
(Community Enhancement Incentive Payment Schedule)

Payment Due Date	Payment Amount
On or before July 1, 2020	$750,000.00
On or before July 1, 2025	$750,000.00
On or before July 1, 2030	$750,000.00
On or before July 1, 2035	$750,000.00
On or before July 1, 2040	$750,000.00
On or before July 1, 2045	$750,000.00
On or before July 1, 2050	$750,000.00
On or before July 1, 2055	$750,000.00
On or before July 1, 2060	$750,000.00
On or before July 1, 2065	$4,500,000.00

Exhibit 31
(Map of Cow and Horse Pastures)