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TURNKEY CONSTRUCTION CONTRACT

by and between

KENRON CORPORATION

and
Document is
ICF KAISER ENGINEERS, INC.

NOT OFFICIAL!

dated as of
This Document is the property of
the Lake County Recorder!
May 2, 1991

PULVERIZED COAL INJECTION SYSTEM
AT THE US STEEL GARY WORKS,

GARY, INDIANA

STOP

"This is a no lien contract executed
pursuant to I.C. 32-8-3-1"



ROBERT W. SPENCER
RECORDER

MAY 10 3 33 PM '91

STATE OF INDIANA, S. H. NO. 1
LAKE COUNTY
FILED IN RECORDS

46.00

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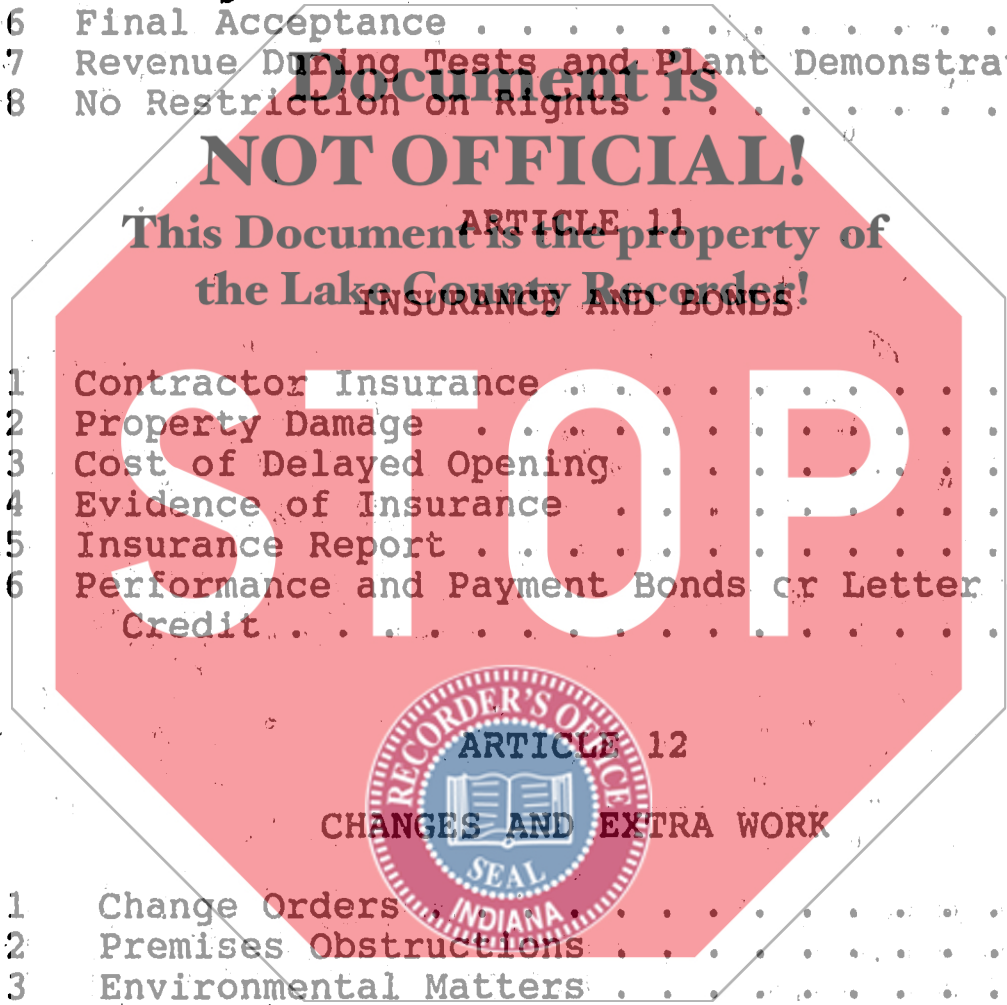
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TERMINATION FOR KENRON'S CONVENIENCE

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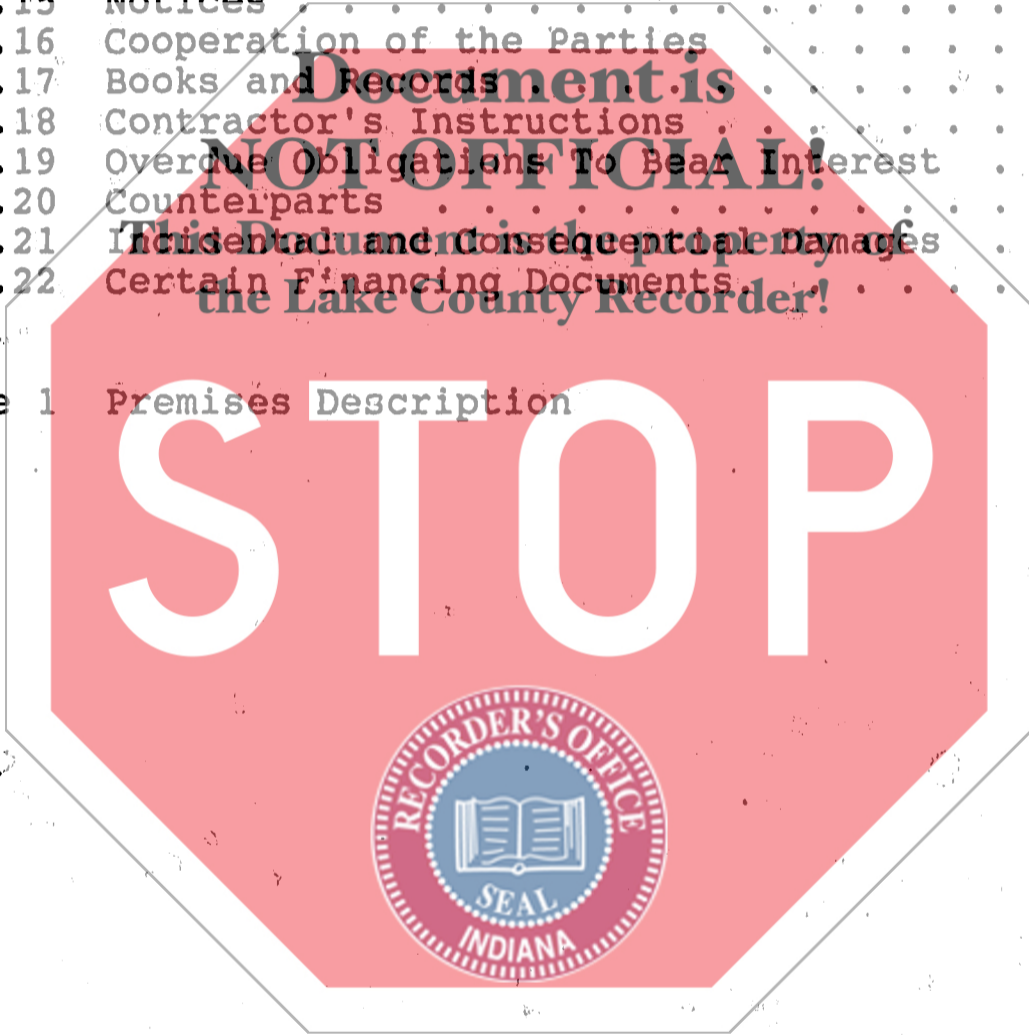
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Schedule 1 Premises Description



TURNKEY CONSTRUCTION CONTRACT

THIS TURNKEY CONSTRUCTION CONTRACT (this "Contract") is made as of this 2nd day of May 1991, by and between KENRON CORPORATION, a Delaware corporation ("Kenron"), and ICF KAISER ENGINEERS, INC., an Ohio corporation ("Contractor"),

W I T N E S S E T H:

Whereas, USX Corporation, a Delaware corporation ("USX"), owns and operates a facility for the production of steel at Gary, Indiana, at which it desires that certain of its raw coal to be used in the production of iron be pulverized utilizing the unique process developed by Armco/B&W and delivered to it for injection into blast furnaces nos. 4, 7, 8 and 13 (the "Blast Furnaces"); and

Whereas, USX and Kenron have entered into that certain Operating Services and Tolling Agreement (the "Tolling Agreement") dated as of the 2nd day of May 1991 by and between USX and Kenron, pursuant to which Kenron has agreed to be responsible for, among other things, the construction and operation the Plant for the pulverization of coal utilizing the Armco/B&W technology and delivery thereof for injection into the Blast Furnaces; and

Whereas, Contractor is the holder of a certain valuable license from Armco/B&W which license gives it the right to design, construct, start up and operate a pulverized coal injection facility at the Gary Works and to sublicense its rights under such license; and

Whereas, Kenron desires that Contractor perform all of Kenron's specific obligations relating to the design, construction and completion of the Plant under the Tolling Agreement and Contractor wishes to perform these obligations for a certain valuable consideration; and

Whereas, as a material inducement to Kenron to enter into this Contract, Contractor is willing to waive all lien rights pursuant to Indiana Code 32-8-3-1.

Now, Therefore, in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Kenron and Contractor agree as follows:

ARTICLE 1DEFINITIONS

"Acceptable Bank" means any U.S. or domestic bank whose long-term debt securities or whose holding company's debt securities are rated AA- or better by Standard & Poor's Corporation or Aa3 or better by Moody's Investor Service Inc.

"Affiliate" means any Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the Person specified. For the purposes of this definition, control of a person means the power, direct or indirect, to direct, or cause the direction of, voting securities or by contract or otherwise.

"Bond" shall have the meaning given it in Section 11.6 hereby.

"Business Day" means any day on which banks located in the cities in which the principal office of Kenron, USX or any Financing Party are located are not required or authorized by law to remain closed and on which the New York Stock Exchange is not closed.

"Business Hours" means 9:00 a.m. through 5:00 p.m. local time on Business Days.

"Change Order" means written authorization from Kenron and approved by the Lender to perform additional, reduced, or revised work, substantially in the form of Part 7 of the Technical Construction Agreement and issued in accordance with Article 12 hereof.

"Claim" shall have the meaning given it in Section 7.17.1 hereof.

"Construction Commencement Date" means May 2, 1991.

"Construction Loan Agreement" means the Construction Loan Agreement dated as of the date hereof between Kenron and GE Capital.

"Construction Loan Event of Default" has the meaning set forth in the Construction Loan Agreement.

"Contract" means this Turnkey Construction Contract dated this 2nd day of May 1991, between Kenron and Contractor.

"Contract Completion Report" shall have the meaning given it in Section 10.6.1 hereof.

"Contract Documents" means (i) the Contract, (ii) the Technical Construction Agreement and (iii) all Modifications thereto.

"Contract Price" means the aggregate of the amounts specified in Section 4.1 hereof, as such amounts may be modified in accordance with the Contract.

"Contractor's Warranty Period" means the period set forth in Section 7.4.5 hereof.

"Controversy" means any claim, dispute, disagreement or other matter in question between the Parties that arises with respect to the terms and conditions of this Contract or with respect to the performance by the Parties of their respective obligations under this Contract.

"Critical Path Network" means a schedule prepared by the Contractor specifying the expected progress of the Contractor on the Work. This Critical Path Network shall depict the principal tasks comprising the work in a sequential manner such that one can discern, at any given time, the longest path through project completion, and the events and Milestones which, if delayed or not accomplished in a timely manner, are most likely to result in an overall project delay.

"Event of Default" shall have the meaning given to it in Section 15.1 hereof.

"Environmental Condition" means any condition with respect to the environment on or off the Premises (including soil, subsoil or groundwater on or beneath the Premises and air above the Premises), whether or not yet discovered, which could or does result in any Loss or Claim to or against USX, Kenron, Contractor or any Indemnitee, by any Governmental Authority or any other third party, including, without limitation, any condition resulting from the operation of USX or Kenron's business or the operation of the business of any other property owner or operator in the vicinity of the Premises or any activity or operation formerly conducted by any Person or entity on or off the Premises.

"Environmental Laws" means any Governmental Rule concerning the environment, health or safety now or hereafter in effect, including, without limitation, the following laws as the same may be amended from time to time: Clean Air Act (42 U.S.C. §§ 7401, et seq.); Clean Water Act (33 U.S.C. §§ 1251, et seq.); Resource Conservation and Recovery Act (42 U.S.C. §§ 6901, et seq.); Hazardous Materials Transportation Act (49 U.S.C. §§ 1802, et seq.); Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601, et seq.); Safe Drinking Water Act (42 U.S.C. §§ 300f, et seq.); Toxic Substances Control Act (15 U.S.C. §§ 2601, et seq.); Rivers and Harbors Act (33 U.S.C. §§ 401, et seq.); and Endangered Species Act (16 U.S.C. §§ 1531, et seq.); and any rules, regulations or ordinances adopted or

other criteria and guidelines promulgated pursuant to such Governmental Rule.

"Facility" means the Plant and Premises.

"Federal Bankruptcy Code" means the Bankruptcy Reform Act of 1978, as amended, as the same may be further amended, and any other applicable law with respect to bankruptcy, insolvency or reorganization that is successor thereto.

"Final Acceptance" means acceptance of the Plant by Kenron pursuant to Section 10.6 hereof.

"Final Acceptance Date" means the date upon which Final Acceptance occurs.

"Final Acceptance Punchlist" means a listing of corrective, remedial or remaining work required to conform the Plant to the Contract Documents, which unfinished work presents no impediment to operation of the Plant in accordance with the Tolling Agreement or to the Contractor's accomplishment of the Plant Demonstration, the cost of completing such unfinished work is reasonably expected to cost no more than 2% of the Contract Price and will not interfere with the delivery of Pulverized Coal in accordance with the Tolling Agreement.

"Final Inspection Comments" shall have the meaning given it in Section 10.6.2 hereof.

"Final Inspection Date" shall have the meaning given it in Section 10.6.2 hereof.

"Financing Party" has the meaning set forth in the Tolling Agreement.

"Force Majeure" shall have the meaning given it in Section 18.1 hereof.

"Gary Works" means that certain steel complex in Gary, Indiana owned and operated by USX.

"GE Capital" means General Electric Capital Corporation, a New York corporation.

"Governmental Authority" means any nation or government, any state, province or other political subdivision thereof or any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Governmental Rule" means any legal requirement in effect from time to time, including any law, statute, code, act, ordinance, order, judgment, decree, injunction, rule, regulation, permit, license, authorization, certificate, order, franchise, determination, approval, notice, demand letter, direction and

requirement of any government, department, commission, board, court, authority, agency, official and officer and any instrument of record, foreseen or unforeseen, ordinary or extraordinary, including but not limited to any change in any law, regulation or the interpretation thereof by any foreign or domestic governmental or other authority.

"ICF" means ICF International, Inc., a Delaware corporation (which prior to March 1, 1991, was known as American Capital and Research Corporation).

"ICF Construction Contract Guaranty" means the Construction Contract Guaranty dated as of the date hereof by ICF in favor of Kenron.

"Initial Amount" shall have the meaning given it in Section 11.6(a) hereof.

"Kenron's Engineer" means any Person from time to time appointed by Kenron to act as its independent engineer for the purposes of this Agreement.

"Lender" means GE Capital or its designee which provides Kenron, or its designee, with construction or permanent financing or any refinancing thereof with respect to the Facility (whether in the form of a loan, a lease, or otherwise) or any activity related thereto and the successors and assigns of each such Person.

"Lender's Engineer" means ESBI Energy Company or any other Person from time to time appointed by the Lender to act as its independent engineer for the purposes of the Agreement (provided that any such appointment shall be made by Lender in consultation with and subject to the approval of Kenron and Contractor, which approval shall not be unreasonably withheld) or, if no such Person is appointed by Lender as authorized so to act for Lender, GE Capital.

"License Agreement" means the Patent and Technology License and Services Agreement, dated as of May 2, 1991, among Armco Steel Company, L.P., a Delaware limited partnership, Babcock & Wilcox Company, a Delaware corporation, and Contractor.

"Loss" means any and all damages, fines, fees, penalties, deficiencies, losses and expenses (including, without limitation, interest, reasonable legal, consulting, engineering and other expenses).

"Mechanical Completion" shall have the meaning given it in Section 10.1.1 hereof.

"Milestone Payment Schedule" shall have the meaning given it in Part 6 of the Technical Construction Agreement.

"Milestones" means any of or all the events listed on the Milestone Payment Schedule under the heading "Milestone".

"Modification" means any Change Order or any other written amendment, supplement, or deletion, which is accomplished after the Construction Commencement Date via a bilateral written agreement of the Parties, with the concurrence or approval of the Lender, and which is intended to modify or supplement the terms of this Contract.

"Notice to Proceed" means the written notification, issued by Kenron, directing Contractor to commence the Work under this Contract. The Notice to Proceed shall be issued by Kenron not later than one day after the execution hereof.

"Operational Testing" shall have the meaning given it in Section 10.3 hereof.

"Operations and Maintenance Manual" means the manual to be provided by Contractor pursuant to Section 20.18 hereof.

"Option Agreement" means the Asset Purchase Option Agreement dated as of the date hereof, among Kenron, PCI and Partnership.

"Option Closing Date" has the meaning set forth in Section 1.01 of the Option Agreement.

"Partnership" means Gary Coal Processing L.P., a Delaware limited partnership.

"Party" or "Parties" means a signatory or the signatories to this Contract and their permitted successors and assigns.

"PCI" means Gary PCI Ltd. L.P., a Delaware limited partnership.

"PCI System" has the meaning set forth in the Tolling Agreement.

"Performance Letter of Credit" shall have the meaning given it in Section 11.6 hereof.

"Performance Tests" means the testing of the Plant in accordance with Part 5 of the Technical Construction Agreement.

"Person" means an individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Plant" means that certain pulverized coal injection plant to be constructed on the premises, as more particularly described in Part 2-A of the Technical Construction Agreement,

together with all the appurtenant structures, equipment, piping, wiring, controls, and all additions and replacements thereto.

"Plant Demonstration" has the meaning set forth in the Tolling Agreement.

"Premises" means the real property described in Schedule 1 hereto, which shall include all easements and rights of way necessary for the operation of the Facility.

"Project Manager" means the individual defined in Section 7.1.2 hereof, also referred to in this document as the Contractor's Representative.

"Required Rate" means the rate (measured in tons per hour) which USX requires pulverized coal to be delivered to the Blast Furnaces, as logged into PCI's process control terminals located in the blast furnace control rooms, not to exceed 146.6 tons per hour; provided, however, that this rate shall be adjusted pursuant to the Tolling Agreement.

"Retainage Letter of Credit" shall have the meaning given it in Section 4.3(a) hereof.

"Retainage LOC Amount" shall have the meaning given it in Section 4.3(a) hereof.

"Scheduled Final Acceptance Date" means the last day of the thirtieth month following the Construction Commencement Date, as adjusted pursuant to Articles 12 and 18 hereof.

"Scheduled Mechanical Completion Date" means the last day of the twentieth month after the Construction Commencement Date, as adjusted pursuant to Articles 12 and 18 hereof.

"Scheduled Tolling Commencement Date" means the last day of the twenty-fourth month after the Construction Commencement Date, as adjusted pursuant to Articles 12 and 18 hereof.

"Scheduled Tracking Milestone Date", with respect to any Tracking Milestone, means the last day of the month after the Construction Commencement Date indicated on Part 1 of the Technical Construction Agreement with respect to such Tracking Milestone, as adjusted pursuant to Articles 12 and 18 hereof.

"Start-up Tests" means the testing of the Plant in accordance with Part 4 of the Technical Construction Agreement.

"Subcontractor" means any Person employed by Contractor to perform any part of the Work.

"Technical Construction Agreement" means the Technical Construction Agreement dated as of the date hereof by and between Kenron and Contractor.

"Testing Milestones" means each of the Milestones listed in Part 1-B of the Technical Construction Agreement.

"Tolling Agreement" means that certain Operating Services and Tolling Agreement, dated as of May 2nd, 1991, by and between USX and PCI and assigned by PCI to Kenron.

"Tolling Commencement" means the first date on which the Plant Demonstration is completed.

"Tracking Milestone" means each of the Milestones listed in Part 1-A of the Technical Construction Agreement.

"USX" means USX Corporation, a Delaware corporation.

"Vendor" means any Person providing equipment or materials to Contractor for incorporation into the Work.

"Warranty Period Amount" shall have the meaning given it in Section 11.6(a) hereof.

"Work" means the design, management, engineering, procurement, construction, installation, equipping, start-up, performance testing, commissioning, completion of the project described in this Contract.

ARTICLE 2

SCOPE OF WORK

2.1 Description of the Plant. The Plant consists of a pulverized coal injection facility, related equipment for the delivery and injection of pulverized coal to the Blast Furnaces, utility interconnections with the Gary Works, and other ancillary facilities and items, all more particularly described in Parts 2-A (Project Description), 2-B (Scope of Work), 2-C (Recommendation of Critical Spare Parts), 4 (Start-Up Testing), and 5 (Performance Tests) of the Technical Construction Agreement.

2.2 Description of Work. Contractor shall perform all Work in accordance with the Contract Documents. Contractor shall complete the project in a good workmanlike manner, and shall design and construct the Plant to meet the requirements of the Project Description (Part 2-A of the Technical Construction Agreement) in a manner consistent with prudent management, manufacturers' suggested maintenance procedures, industry standards, insurance requirements in accordance with Article 11, good engineering practices, and sound business practice. All aspects of the Work indicated in or reasonably inferred from the Contract Documents and not expressly mentioned therein and all Work and product usual and/or necessary to complete the Work, shall be furnished and executed as if it were called for by the Contract Documents.

2.3 Requirements of Tolling Agreement. Kenron and Contractor recognize and agree that this Contract is intended to fulfill Kenron's obligations under the Tolling Agreement with respect to the design and construction of the Plant. Contractor represents that it has read the Tolling Agreement and will perform its obligations under this Contract in accordance with the requirements of the Tolling Agreement.

ARTICLE 3

TIME OF PERFORMANCE

3.1 Time of Performance. Contractor shall (a) commence Work upon receipt of the Notice to Proceed, (b) complete each Tracking Milestone by its respective Scheduled Tracking Milestone Date and achieve Final Acceptance by the Scheduled Final Acceptance Date, and (c) use its best efforts to achieve (i) Mechanical Completion by the Scheduled Mechanical Completion Date and (ii) Tolling Commencement by the Scheduled Tolling Commencement Date; provided, however, that nothing in this Section 3.1 shall in any way limit or modify the obligations of Contractor under Section 3.5.

3.2 Construction Schedule. Contractor shall prepare and deliver to Kenron, Lender and Lender's Engineer not later than 45 days after the Construction Commencement Date, a Critical Path Network which shall clearly demonstrate the Contractor's plan of Work and which shall provide for (a) completion of each Tracking Milestone by its respective Scheduled Tracking Milestone Date, (b) achievement of Mechanical Completion by the Scheduled Mechanical Completion Date, (c) achievement of Tolling Commencement by the Scheduled Tolling Commencement Date, (d) achievement of Final Acceptance by the Scheduled Final Acceptance Date and (e) the completion of each Milestone other than a Tracking Milestone at a time which does not materially differ from the time indicated for such Milestone in Part 6 of the Technical Construction Agreement. Such Critical Path Network shall specify long term lead items which will need to be ordered as soon as possible because of manufacturer or dealer requirements.

Thereafter, Contractor shall inform Kenron and Lender promptly of any material change in the construction schedule from that set forth in such Critical Path Network and Kenron shall be responsible for advising Contractor of any change in conditions or new information of which it is aware that could affect the schedule; provided, however, that nothing in this Section 3.2 shall in any way limit or modify the requirements of Article 10 hereof.

3.3 Progress Reports. Contractor shall submit progress reports to Kenron (with a copy to Lender's Engineer and Lender) including current excerpts from the Critical Path Network, by the tenth calendar day of each calendar month following the Construction Commencement Date and continuing until

the Tolling Commencement Date. These reports shall, as a minimum, indicate Milestones reached, the occurrence of special events during the period covered by the report, the Work scheduled to be performed during the following month, and all Work to be covered during the following month.

3.4 Early Achievement of Tolling Commencement. In the event that Contractor shall achieve Tolling Commencement earlier than the forty-fifth calendar day prior to the Scheduled Tolling Commencement Date, Kenron shall pay to Contractor a bonus of Thirty Thousand dollars (\$30,000.00) for each full calendar day of improvement over the above stated target, up to a ceiling of Five Hundred Thousand dollars (\$500,000.00).

3.5 Failure To Achieve Timely Tolling Commencement. Contractor shall cause Tolling Commencement to have occurred no later than the Scheduled Tolling Commencement Date.

3.5.1 Liquidated Damages. In the event Tolling Commencement has not occurred by the Scheduled Tolling Commencement Date, Contractor shall pay to Kenron, as liquidated damages and not as a penalty, an amount equal to Thirty Thousand dollars (\$30,000.00) per day for each calendar day that Tolling Commencement has not been achieved following the Scheduled Tolling Commencement Date. Payments of liquidated damages shall be made on the first day of each month after such damages commence to accrue.

3.5.2 Liquidated Damages - Balloon Payment. In the event that Tolling Commencement shall not have occurred by the Scheduled Final Acceptance Date for reasons attributable to the Contractor (including delays resulting from Contractor's failure to meet performance test and Plant Demonstration requirements as set forth in this Contract), then Contractor shall pay to Kenron, a single additional liquidated damages payment such that the sum of (i) such additional liquidated damages payment and (ii) any payments made pursuant to Section 3.5.1, and (iii) Kenron's retainage then-withheld pursuant to Section 4.3 shall be equal to thirty percent (30.0%) of the total Contract Price. Thereafter no additional liquidated damages pursuant to this Section 3.5 shall accrue.

3.6 Liquidation of Damages. KENRON AND CONTRACTOR AGREE THAT THE ACTUAL DAMAGES WHICH WOULD RESULT TO KENRON AS A RESULT OF A BREACH OR DEFAULT BY CONTRACTOR FOR WHICH LIQUIDATED DAMAGES ARE PROVIDED PURSUANT TO THIS ARTICLE 3 WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ESTABLISH AND CONTRACTOR DESIRES TO HAVE A LIMITATION PLACED ON ITS POTENTIAL LIABILITY TO KENRON IN THE EVENT OF SUCH BREACH OR DEFAULT. THEREFORE, IN ORDER TO INDUCE KENRON TO ENTER INTO THIS AGREEMENT WITH CONTRACTOR, AND IN ORDER TO INDUCE KENRON TO WAIVE OTHER RIGHTS TO COLLECT DAMAGES RESULTING FROM A BREACH OR DEFAULT FOR WHICH LIQUIDATED DAMAGES ARE PROVIDED IN THIS ARTICLE 3, CONTRACTOR HAS PROPOSED AND KENRON HAS ACCEPTED THE CONCEPT OF LIQUIDATED DAMAGES AS SET FORTH IN THIS ARTICLE 3, WITH THE AMOUNT OF

PAYMENT TO KENRON HAVING BEEN THE SUBJECT OF CONSIDERABLE NEGOTIATIONS BETWEEN THE PARTIES. PAYMENT OF SAID LIQUIDATED DAMAGES IS NOT INTENDED TO CONSTITUTE A FORFEITURE OR PENALTY, BUT IS INSTEAD INTENDED TO REFLECT CONTRACTOR'S AND KENRON'S BEST ESTIMATE OF ACTUAL DAMAGES AND TO ACCOMPLISH THE LIMITATION ON CONTRACTOR'S LIABILITY REQUIRED BY CONTRACTOR AS AFORESAID.

ARTICLE 4

CONTRACT PRICE, TERMS OF PAYMENT, FINANCING AND OTHER TERMS

4.1 Contract Price. As full compensation for the materials provided by the Contractor under this Contract, Kenron shall pay Contractor the fixed amount of Forty Million One Hundred Eighty Nine Thousand dollars (\$40,189,000). As full compensation for the completion of all of Contractor's obligations under this Contract (other than the provision of materials), Kenron shall pay Contractor the fixed amount of Thirty Five Million Six Hundred Eleven Thousand dollars (\$35,611,000), which amount includes, without limitation, all sales, use and other taxes applicable or payable in connection with, during or as a result of the Work or the Plant, excepting only real property taxes on the Premises and the completed improvements thereon and taxes which are the obligation of USX under the Tolling Agreement. The Contract Price (which term includes both amounts payable under this Section 4.1) shall be subject to adjustment only for duly executed Change Orders pursuant to Article 12.

4.2 Progress Payments. Progress payments will be made once a month as the Work progresses on the basis of achievement of Milestones as provided in Section 4.2.3. Each progress payment shall include pro rata shares of the price for materials and the price for other services performed by the Contractor based on the allocation of the Contract Price set forth in Section 4.1.

4.2.1 Payment Dates at Variance with Milestone Schedule. Contractor retains the right to prosecute the Work in a manner which it considers to be in the best interests of timely overall completion. Milestones may be invoiced and paid in due course whenever they have been completed, regardless of the scheduled date for achievement of such Milestones.

4.2.2 Payment Procedures. Kenron shall make payments under this article by wire transfer as follows:

Bank: Manufacturers Hanover Bank (Delaware)
1201 Market Street, Wilmington, Delaware 19801

ABA Number: 0311 00267
Account Name: ICF KAISER ENGINEERS, INC.
Account Number: 6301-217059-500

4.2.3 Invoicing. Not later than the tenth day of each calendar month after the Construction Commencement Date, the Contractor shall submit to the Lender's Engineer, with a copy to Kenron and the Lender, a pro forma invoice substantially in the form of Part 3 of the Technical Construction Agreement, outlining the Milestones achieved and the amounts which will be invoiced in respect of such Milestones (which shall be the amount set forth opposite the description of such Milestone in the Milestone Payment Schedule) for the preceding month. Kenron, Lender and Lender's Engineer will, within five Business Days of receipt thereof, either approve, disapprove, or partially approve the pro forma invoice, attend a monthly project meeting among Contractor, Kenron and Lender's Engineer, and return the signed document to Contractor. Contractor may then submit to Kenron (with a copy to the Lender) the actual invoice (in a form to be approved by the Lender) with respect to those Milestone payments set forth in the pro forma invoice as to which approval was given by all of Kenron, Lender, and Lender's Engineer. No payment shall be due unless and until invoiced in accordance with the provisions of this Section 4.2.3. Kenron shall ensure that the actual invoice is paid within five days of receipt thereof, subject only to Kenron's right of payment retention pursuant to Section 4.3.

4.3 Payments Retained and Final Payments. (a) In respect of each progress payment made hereunder, Kenron (i) may withhold five percent (5.0%) of such progress payment, placing such retainage in an interest-bearing escrow account, which shall be pledged to the Lender, or (ii) shall make payment in full upon presentation by the Contractor of an irrevocable standby letter of credit from an Acceptable Bank in the form of Part 11 of the Technical Construction Agreement (a "Retainage Letter of Credit") in favor of Kenron, and assigned to Lender, in an amount equal to the sum of five percent (5.0%) of such progress payment plus five percent (5.0%) of each progress payment previously made hereunder other than progress payments made pursuant to the preceding clause (i) (the "Retainage LOC Amount"). Such retention or Retainage Letter of Credit, as the case may be, shall be held as:

- (1) Security for the Contractor's performance of all contractually required acts and services up to and including Final Acceptance,
- (2) Security for the payment of any amounts which may become due from Contractor to Kenron under provisions of this Contract, and
- (3) Security for the payment of agreed liquidated damages assessments by Contractor to Kenron in accordance with the provisions of this Contract.

Kenron may draw under the Retainage Letter of Credit at any time and from time to time upon the occurrence and during the continuance of an Event of Default in which event the proceeds of such drawing shall be applied to the payment of amounts due from

Contractor hereunder (including pursuant to Section 3.5.1 or Section 3.5.2), costs and expenses incurred to complete the Work or Losses arising from such Event of Default, as applicable; provided, however, that if such Event of Default does not relate to Contractor's failure to pay any amount due hereunder (including pursuant to Section 3.5.1 or Section 3.5.2), Kenron shall not be permitted to make drawings under the Retainage Letter of Credit unless and until the sum of (i) payments made under this Contract to Contractor on or prior to the date of such drawing and (ii) the aggregate amount of costs and expenses incurred to complete the Work and Losses arising from Events of Default hereunder, in each case incurred on or prior to the date of such drawing, shall exceed the Contract Price.

(b) The Retainage Letter of Credit may have an initial term of one year and provide for annual extensions thereof for additional periods of at least one year so long as the Retainage Letter of Credit shall provide that, notwithstanding any final expiration date of such Retainage Letter of Credit, written notice shall be given to Kenron not later than 30 calendar days prior to the then-scheduled expiration date of such Letter of Credit if such Letter of Credit has been extended for an additional period of at least one year, and, if such notice has not been provided, the Retainage LOC Amount may be drawn under such Letter of Credit and retained by Kenron as collateral security for the obligations set forth in clauses (1), (2) and (3) of paragraph (a) above, and Kenron may apply such amount (or any portion thereof) at any such time in satisfaction of such obligations, until such time as Contractor shall provide to Kenron a replacement Retainage Letter of Credit satisfying the requirements of this Section 4.3.

(c) The Retainage Letter of Credit shall (i) have an amount available to be drawn thereunder as of any date equal to at least the then-current Retainage LOC Amount, (ii) permit partial drawings, (iii) permit any beneficiary thereof to assign all or any part of its interest therein without consent of the issuing bank or Contractor and (iv) have an original stated term of not less than one year.

(d) The Retainage Letter of Credit at the time of its delivery to Kenron shall be issued by a Person that is an Acceptable Bank. If at any time after the delivery of such Letter of Credit to Kenron such Person shall cease to be an Acceptable Bank solely because such Person's long-term debt securities or its holding company's long-term debt securities are rated less than AA- by Standard & Poor's Corporation and less than Aa3 by Moody's Investors Service Inc. but such Person's long-term debt securities or its holding company's long-term debt securities continue to be rated at least A or better by Standard & Poor's Corporation or at least A-3 by Moody's Investors Service Inc., then on or prior to the next anniversary of the date such Letter of Credit was initially delivered to Kenron or, if such rating decline occurred during the 90-day period preceding such next anniversary, on or prior to the date that is 90 days after

the date on which such rating decline occurred, Contractor shall deliver to Kenron a replacement Retainage Letter of Credit issued by an Acceptable Bank and otherwise complying with the provisions of this Section 4.3. If at any time after the delivery of such Letter of Credit to Kenron, such Person shall cease to be an Acceptable Bank for any reason other than under the circumstances set forth in the preceding sentence, then on or prior to the date that is 90 days after the date on which such Person ceased to be an Acceptable Bank, Contractor shall deliver to Kenron a replacement Retainage Letter of Credit issued by an Acceptable Bank and otherwise complying with the provisions of this Section 4.3. If Contractor shall not so deliver any replacement Retainage Letter of Credit as contemplated by this Section 4.3, Kenron shall be entitled to draw the full amount of such Letter of Credit and to retain such amount as collateral security as provided, and to apply such amount (or any portion thereof) at such times for the purposes set forth in clauses (1), (2) and (3) of paragraph (a) above, until such time as Contractor shall provide to Kenron a replacement Retainage Letter of Credit satisfying the requirements of this Section 4.3.

(e) Upon the latest of (i) Rolling Commencement and (ii) five Business Days following the Final Inspection Date and (iii) delivery of all items and copies in accordance with Sections 7.12.1 and 7.12.4 hereof, Kenron shall make all remaining payments due under the terms of Article 4 and release any retention or Retainage Letter of Credit, as the case may be, then held, less one and one-half times the value, as reasonably determined by the Contractor and agreed by Kenron and Lender, of completing any Work remaining then unfinished with respect to the Final Acceptance Punchlist as noticed to Contractor in the Final Inspection Comments. Upon the Final Acceptance Date, Kenron shall release any retention or Retainage Letter of Credit then held and pay any remaining amount due under the terms of Article 4.

4.4 Late Payments. Any late payments shall bear interest at a rate equal to three percent (3.0%) above the prime interest rate as published by Manufacturers Hanover Bank of New York, compounded daily, from the date payment is due taking into account any modifications to the payment schedule in accordance with the terms hereof.

4.5 Release. The acceptance by Contractor of final payment shall operate as a release by Contractor to Kenron of all claims of Contractor or any Affiliate of Contractor, any Subcontractor or Vendor who performed Work or caused Work to be performed, directly or indirectly, on behalf of Contractor for further payment for all things done or furnished in connection with or arising out of the Work.

4.6 No Evidence. No payment by Kenron hereunder shall be evidence of Kenron's acceptance or approval of any Work or operate as a waiver of any remedy of Kenron.

ARTICLE 5

AUTHORITY OF KENRON

5.1 Kenron's Right To Stop the Work.

5.1.1 Defective Work. If Contractor fails to correct defective Work as required by Section 7.4.5 or fails to carry out any Work in accordance with the Contract Documents, or otherwise breaches the Contract, Kenron, by written notice, may order Contractor to stop the affected portion of the Work, until the cause for such order has been eliminated; provided, however, that this right of Kenron to stop such Work shall not give rise to any duty on the part of Kenron to exercise this right for the benefit of Contractor or any other Person. Contractor agrees that it shall not have or assert any claim for or be entitled to any additional compensation or damages on account of any such suspension if such stoppage is for good cause under the circumstances.

5.1.2 Dangerous Conditions. Kenron may stop the performance of the Work, or any portion thereof, at any time when dangerous conditions exist or the proper precautions are not being taken. Contractor agrees that it shall not have or assert any claim for or be entitled to any additional compensation or damages on account of any such suspension if such stoppage is for good cause under the circumstances. If such stoppage is not for good cause under the circumstances, Contractor shall be entitled to such relief as is determined under Article 12.

5.1.3 Kenron's Right To Carry Out the Work. If Contractor defaults or neglects to carry out such Work, or any portion thereof, in accordance with the Contract Documents and fails within ten (10) days after receipt of notice from Kenron to commence and continue correction of such default or neglect with diligence and promptness, Kenron may then, after notice and without prejudice to any other remedy it may have, make good such deficiencies. In such case an appropriate Change Order shall be issued, deducting from the payments then or thereafter due Contractor all costs of correcting such deficiencies, including without limitation, compensation for any outside consultant or Kenron's additional services made necessary by such default, neglect or failure. If the payments then or thereafter due Contractor are not sufficient to cover such amount, Contractor shall pay the difference to Kenron.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES

6.1 Representations of Kenron. In order to induce Contractor to enter into this Contract, Kenron makes the following representations and warranties to Contractor:

(a) Organization. Kenron is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware. Kenron has full corporate power and authority to enter into this Contract and to perform its obligations hereunder. Kenron is duly qualified or admitted to do business and is in good standing in all jurisdictions in which the ownership, use or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification or admission necessary and in which the failure to be so qualified or admitted and in good standing could reasonably be expected to have a material adverse effect on the validity or enforceability of this Contract or on the ability of Kenron to perform its obligations hereunder.

(b) Authority. Kenron has all the requisite power and governmental licenses, permits, authorizations, consents and approvals necessary to own and operate its properties and to carry on its business as now conducted. The execution and delivery by Kenron of this Contract, and the performance by Kenron of its obligations hereunder, have been duly and validly authorized by the stockholders of Kenron, no other corporate action on the part of Kenron or its stockholders being necessary. This Contract constitutes a legal, valid and binding obligation of Kenron enforceable against Kenron in accordance with its terms.

(c) Execution. Each person executing this Operating Agreement on behalf of Kenron is fully authorized to execute and deliver the same.

(d) No Conflict. The execution and delivery by Kenron of this Contract do not and the performance by Kenron of its obligations under this Contract will not:

(i) conflict with or result in a violation or breach of any of the terms, conditions or provisions of the certificate or articles of incorporation or bylaws (or other comparable corporate charter documents) of Kenron;

(ii) conflict with or result in a violation or breach of any term or provision of any Order or Governmental Rule applicable to Kenron or any of its assets or properties; or

(iii) conflict with any material agreement, contract or indenture of Kenron.

6.2 Representations of Contractor. In order to induce Kenron to enter into this Contract, Contractor makes the following representations and warranties to Kenron:

(a) Organization. Contractor is an Ohio corporation duly organized, validly existing and in good standing under the laws of the State of Ohio. Contractor has full corporate power and authority to enter into this Contract and to

perform its obligations hereunder. Contractor is duly qualified or authorized to do business and is in good standing in all jurisdictions in which the ownership, use or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification or admission necessary and in which the failure to be so qualified or admitted and in good standing could reasonably be expected to have a material adverse effect on the validity or enforceability of this Contract or on the ability of Contractor to perform its obligations hereunder.

(b) Authority. Contractor has all the requisite power and governmental licenses, permits, authorizations, consents and approvals necessary to own and operate its properties and to carry on its business as now contemplated. The execution and delivery by Contractor of this Contract, and the performance by Contractor of its obligations hereunder, have been duly and validly authorized by the stockholders of Contractor no other action on the part of Contractor or its stockholders being necessary. This Contract constitutes a legal, valid and binding obligation of Contractor enforceable against Contractor in accordance with its terms.

(c) Execution. Each person executing this Contract on behalf of Contractor is fully authorized to execute and deliver the same.

(d) No Conflicts. The execution and delivery by Contractor of this Contract do not and the performance by Contractor of its obligations under this Contract will not:

- (i) conflict with or result in a violation or breach of any of the terms, conditions or provisions of the certificate or articles of incorporation or bylaws (or other comparable charter documents) of Contractor.
- (ii) conflict with or result in a violation or breach of any term or provision of any Order or Governmental Rule applicable to Contractor any of its assets or properties; or
- (iii) conflict with any material agreement, contract or indenture of Contractor.

ARTICLE 7

CERTAIN OBLIGATIONS OF CONTRACTOR

7.1 Independent Contractor; Contractor's Representative.

7.1.1 Independent Contractor. Contractor shall act as an independent contractor and shall maintain complete control over its employees and all Subcontractors.

7.1.2 Contractor's Representative. Before starting Work, Contractor shall designate a competent authorized Person as its representative to represent and act with full authority for Contractor (the "Project Manager") and shall notify Kenron and the Lender of the name, address and telephone number (day and night) of such representative, and of any change in such designation. The Project Manager shall have authority to make binding and enforceable decisions in the name of Contractor and to accept service of all notices that Kenron or the Lender desires to serve or that are required by the Contract to be served on Contractor.

7.1.3 Contractor's Site Representative. Before starting Work, Contractor shall designate a competent authorized Person as its site representative and shall notify Kenron and the Lender of the name, address and telephone number (day and night) of such representative, and of any change in such designation. Contractor's site representative will be present or be duly represented at the Premises at all times when the Work is actually in progress and, during periods when the Work is suspended, Contractor shall make or cause to be made arrangements acceptable to Kenron and the Lender for any emergency Work that may be required. All requirements, instructions and other communications given to Contractor's site representative by Kenron shall be as binding as if given to Contractor.

7.2 Supervision; Responsibility for Work.

7.2.1 Supervision. Contractor shall supervise and direct the Work, using its best skill and attention. Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures, for coordinating all portions of the Work under the Contract and for the acts and omissions of all Affiliates of Contractor and all other Persons performing any Work directly or indirectly on Contractor's behalf or direction.

7.2.2 Responsibility for Work. Subject to Section 7.18, Contractor shall have complete responsibility for the Work and the protection thereof, and for preventing injuries to Persons and damage to the Work and property and utilities on or about the Work or the Premises.

7.3 Labor, Product and Personnel.

7.3.1 Labor and Product. Except as otherwise provided in the Contract Documents, Contractor shall provide and pay for all labor, product, utilities, construction materials, transportation, storage and other facilities and services necessary for the proper execution and completion of the Work (except that which is to be provided by USX under the terms of the Tolling Agreement), whether temporary or permanent and whether incorporated or to be incorporated in the Work.

7.3.2 Personnel. At all times during the performance of the Work, Contractor shall keep, and cause to be kept, at the Premises a sufficient number of skilled workmen, laborers and other personnel necessary to perform and complete each part and portion of the Work in accordance with the Contract Documents.

7.4 Warranties. Contractor represents, covenants, and warrants that:

7.4.1 Contractor is fully experienced and properly licensed, equipped, organized, financed and qualified to perform the Work pursuant to the Contract Documents.

7.4.2 Contractor will design, engineer, schedule, procure, construct, install, equip, start-up, commission, performance test and complete the Plant in accordance with the requirements of the Contract Documents.

7.4.3 The Plant will be designed, engineered, constructed, installed, equipped, started up, performance tested and completed in accordance with sound, generally accepted engineering practices and in compliance with the requirements of the Tolling Agreement and all applicable requirements of federal, state or local laws, codes and regulations governing the construction and operation of the Plant in effect and enforced until Final Acceptance occurs. All design drawings will be approved and signed by an appropriate engineer retained or employed by Contractor and registered within the State of Indiana.

7.4.4 The Work will be properly designed and engineered in accordance with industry standards and good engineering practices and, when installed, will be new, of good quality, and free from fault or defects in material or workmanship. Contractor hereby expressly guarantees that the Plant shall be as described in the Contract Documents, shall be fully equipped, operational, and capable of pulverizing and delivering coal as required by the Contract Documents and the Tolling Agreement.

7.4.5 If Kenron promptly notifies Contractor of any material errors, omissions or deficiencies discovered in the Work during the first full calendar year after the date of Tolling Commencement (the "Contractor's Warranty Period"), Contractor shall promptly replace, repair or reperform the Work to conform to the requirements of the Contract Documents and the Tolling Agreement, at Contractor's expense, which obligations shall be secured by the Performance Letter of Credit as provided in Section 11.6.

7.5 Performance Warranties. Contractor represents, covenants and warrants that the Plant shall comply with the Contract Documents and shall perform in accordance with the requirements of the Performance Tests and the Tolling Agreement

and any other tests required or requested pursuant to Section 9.4.3 hereunder. When Contractor has demonstrated achievement of the Performance Tests, the Contractor's obligations under this Section 7.5 shall be satisfied except with respect to Section 7.4.5 hereof.

7.5.1 In the event that Contractor shall not be capable of demonstrating achievement of the Performance Tests as necessary to achieve Tolling Commencement, the Contractor shall pay to Kenron, as liquidated damages and not as a penalty, the sum indicated in Section 3.5.2, above.

7.6 Permits and Licenses. Contractor shall be responsible for obtaining all permits, licenses, exemptions and approvals required to perform the Work, including movement of equipment, and shall provide Kenron all practicable information, cooperation and assistance requested by Kenron in connection with Kenron's application for any permits, licenses, exemptions and approvals for the operation and occupancy of the Plant. In no event shall Contractor have any liability or responsibility for the failure of any governmental agency to grant or act upon any application for a permit, license, exemption or approval, or for the cost of, or the terms or conditions made applicable to, any permit, license, exemption or approval to be obtained by Kenron except to the extent caused by or related to Contractor's negligence or misconduct or failure to comply with the terms of this Contract.

7.7 Compliance With Laws, Codes, Licenses, etc. Contractor shall ensure that the Plant and all of its component parts shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all applicable industry codes, specifications and standards, and with all applicable licenses and permits issued prior to the date hereof or at any time during the term of this Contract and all requirements of insurance policies maintained in connection with the Facility.

7.8 Change in Law. If any law, rule, regulation, ordinance, code, specification or standard or official interpretation, which was not pending or officially proposed by legislative action before execution hereof, becomes effective, enforced, modified or repealed after this Contract is executed, and if any license, exemption, approval or permit condition, which was not pending or for which a final application had not been accepted before execution hereof, is issued, modified or repealed after the date of this Contract, any of which necessitate modification of the Work in order to comply therewith, such modification shall be deemed to be a change for which Contractor shall be entitled to an adjustment of the Contract Price and time of performance (including appropriate adjustments to bonus and penalty dates) which change shall be arranged for and approved in accordance with Article 12 hereof, provided that the approval of Kenron and Lender shall not be unreasonably withheld.

7.9 Premises Condition and Access; Title to Materials Found; Use of Premises; Security.

7.9.1 Access. Contractor shall have suitable access to the Premises for the Plant as specified in Schedule 1 hereto, which Premises and access Contractor hereby acknowledges is suitable for the performance of the Work.

7.9.2 Premises Condition. Contractor represents that it has investigated the Premises and is familiar with the same. Contractor further represents that the Premises as depicted in Schedule 1 hereto is satisfactory for the performance of the Work and the operation of the Plant, including, without limitation, sufficient parking, staging and construction laydown areas. Contractor has satisfied itself in all respects concerning the nature and location of the Premises and the general and local conditions affecting the following: the environment, transportation, access, disposal, handling and storage of materials, electric power and other utilities; availability of materials and other conditions; topography and ground surface conditions; reasonably discernable subsurface geology conditions, including without limitation, soil borings and values associated therewith, test pits and percolation tests, and the nature and quantity of surface and subsurface materials to be encountered; equipment and facilities needed before and during performance of the Contract; and all other matters within the scope of the Work. The failure of Contractor to discover problems with the local conditions will not relieve it from the responsibility for properly performing the Work without any extra compensation or extension of time on account thereof. Except as provided in Section 12.2 and 12.3 hereof, Contractor assumes responsibility for increased costs arising out of any site conditions which were reasonably discernable on the Construction Commencement Date.

7.9.3 Finds. In the event that any Indian relics or items with archaeological or historical value or other valuable materials are discovered by Contractor, any Subcontractor or any Affiliates of them, Contractor shall immediately notify Kenron and await the decision of Kenron before proceeding with any Work. Delays on account thereof may be the basis for a Change Order solely as provided in, and in accordance with, Article 12. None of Contractor, any Subcontractor, or any Affiliates of Contractor or any Subcontractor, shall have any property rights to said relics, items or materials. Contractor shall notify Kenron and Lender prior to any disposal of any substantial quantities of excavated material.

7.9.4 Limitations on Contractor; Operations at Premises. Contractor's operations at the Premises shall not be unreasonably limited by Kenron or Kenron's Engineer. Contractor's operations may be constrained or limited as required by any Governmental Authority, any applicable federal, state and local laws, ordinances, regulations, permits and approvals and the Contract Documents. Contractor shall not unreasonably

encumber the Premises with any Work nor interfere with operations of any Person at or near the Premises.

7.9.5 Advertising. Except as required by law, Contractor shall neither place nor maintain, nor allow to be placed or maintained, any commercial advertising matter, sign, poster or the like on or about the Premises without Kenron's prior written approval.

7.10 Shop Drawings, Product Data and Samples.

7.10.1 Review. Contractor shall review, stamp with its approval and submit for Kenron's review all drawings and specifications which are reasonably necessary for procurement, erection or operation, vendor data and samples with reasonable promptness and in orderly sequence and amounts, so as to cause no delay to the Work or the construction. Kenron and Lender shall have the right to review the same and to recommend changes within a reasonable time. A reasonable time shall be considered five (5) Business Days after receipt.

7.10.2 Effect of Approval. By approving and submitting drawings and specifications, vendor data and samples, Contractor represents that it has determined and verified all materials, field measurements, and field construction criteria related thereto, and that it has checked and coordinated the information contained within such submissions with the requirements of the Work and the Contract Documents.

7.11 Confidentiality. Each Party shall treat all information obtained by it, its employees, contractors, subcontractors, agents and any other representatives from the other Party or USX concerning the other Party's or USX's business or operations, owned or licensed technology, drawings, reports, designs and other proprietary information including, without limitation, the PCI System, and designated in writing by the disclosing Party or USX as confidential information and shall not divulge the information without prior written approval from the disclosing Party or USX and shall return all material supplied by the disclosing Party or USX after the material has served its purposes; provided, however, that such restrictions shall not apply if: (i) the Party receives said information from a source other than the other Party or USX and the source, to the best of the Party's knowledge, is not subject to the restrictions specified above or restrictions similar thereto; (ii) the information constitutes public information or becomes public information; (iii) the Party receiving the information possessed the information free of the restrictions specified above prior to its receipt from the other Party or USX; or (iv) the Party develops the information independently from the other Party or USX. In addition, either Party may disclose information if required by legal means after any request for protective order concerning said information has been refused and to each Lender and its designees and agents; provided that any such Lender shall have

first agreed in writing to be bound by the provisions of this Section 7.11.

7.12 Ownership, Use and Maintenance of Documents.

7.12.1 Ownership; Use. Subject to Section 7.12.2 below, all specifications and any other drawings, plans, models, shop drawings, vendor data, samples, and documents developed by or for Contractor in connection with conduct of the Work, including without limitation, as-built drawings and specifications, shall be the property of Kenron and Contractor shall deliver, or shall cause the delivery of, all such items to Kenron, and such copies as are reasonably necessary to Kenron or as directed by Kenron, upon the earliest to occur of final payment under the Contract, Tolling Commencement, and termination of the Contract for any reason. Contractor may not retain (other than as a record of Contractor's performance under this Contract and for use in the furtherance of its business), use, transfer, market or sell the foregoing documents or information without the prior written consent of Kenron.

7.12.2 Records. Contractor shall maintain at the Premises for Kenron one record copy, and shall furnish additional copies thereof to Kenron if requested, of all drawings, plans, specifications, addenda and test reports, in good order and marked currently to record all changes made during performance of the Work; these shall be delivered to Kenron upon the earliest to occur of final payment under the Contract, Tolling Commencement, and termination of the Contract for any reason.

7.12.3 Copies. Anything in the Contract to the contrary notwithstanding, Contractor shall promptly give to Lender a copy of all documents, notices or other information given to Kenron.

7.13 Utilities. Contractor shall arrange, engineer and interconnect electricity, water, sewage, air and all other utilities in sufficient quantity to enable the construction, start-up, preliminary testing and performance testing of the Plant and Tolling Commencement, in accordance with the Contract Documents. All utilities consumed in connection with construction, start-up and performance testing shall be at Contractor's expense except to the extent that such utilities are provided and required to be paid for by USX under the provisions of the Tolling Agreement.

7.14 Plant Procedures; Performance of Work.

7.14.1 Contractor Resources. Contractor is committed to utilization of appropriate resources, including home office management, field work and technical support services required to complete the Work. Contractor shall provide Plant organization including a field construction organization and home office organization.

7.14.2 Review; Approval. Any review or lack of review or recommendation by Kenron or Lender of any documents, plans, drawings, specifications, analyses, reports and procurement commitments developed or provided by Contractor for the Plant shall not diminish any of Contractor's responsibilities or obligations under the Contract Documents. After delivery to Contractor by Kenron or Lender, as the case may be, of at least two Business Days' prior notice and during Business Hours (but at any time during the continuance of a Construction Loan Event of Default or in the case of an emergency), Contractor shall provide or make available to Kenron or Lender, as the case may be, at the Premises any documents, plans, drawings, or other related information that Kenron or Lender may reasonably request.

7.15 Quality Control Program. Contractor shall establish, implement and maintain a quality assurance and control program. A copy of the program shall be delivered to Kenron and to Lender within forty-five (45) days after the Construction Commencement Date. The program shall be designed to meet the following objectives:

7.15.1 Purchased items and documentation shall meet specified requirements of the Contract Documents;

7.15.2 The quality of items to be part of permanent installation shall not be degraded during receiving, storing, transporting, handling, erection, installation, inspection and testing;

7.15.3 Systems, equipment and structures shall be fabricated and erected in strict compliance with the Vendor or Subcontractor's instructions and the Contract Documents; and

7.15.4 Components shall meet performance and functional requirements of the Contract Document.

7.16 Cleaning Up.

7.16.1 At all times, Contractor shall, or shall cause Subcontractors to, keep the Premises and all Work areas and access to the same in a neat, clean and safe condition. Upon completion of any portion of the Work, Contractor shall, or shall cause Subcontractors to, promptly remove all hazardous waste, equipment, temporary structures, and surplus construction and other product not to be used at or near the same location during later stages of Work.

7.16.2 Upon completion of the Work, Contractor shall promptly remove from the Premises all of Contractor's equipment, material, scaffolding, temporary buildings, and like items, leaving the premises and the vicinity clean and ready for use.

7.17 Indemnification.

7.17.1 General Indemnity. Contractor, for itself, its successors and assigns, agrees to defend, indemnify and hold harmless USX, Kenron, Lender and their respective successors, assigns, officers, agents, servants and employees (collectively, the "Indemnitees") from and against any and all claims, demands, damages, actions or causes of action at law or in equity (each a "Claim"), together with any and all Losses in connection therewith or related thereto, asserted by any entity (other than Kenron or an Affiliate of Kenron, which shall not include Lender or any Affiliate of Lender), or Person (including but not limited to employees of Kenron), for bodily injuries, death or property damage arising or in any manner resulting from the Work regardless of whether or not the alleged bodily injuries, death or property damage is caused or is alleged to be caused in whole or in part by the conduct, fault or negligence of Indemnitees, including those for which Kenron is, or is alleged to be, strictly and absolutely liable, including defects in the machinery, equipment or vehicles; provided, however, that: (i) with respect to Claims or Losses arising or in any manner resulting from Work performed by Contractor, its employees, agents, Subcontractors or Vendors (x) on the Premises including easements and rights-of-way that are part of the Premises or (y) at any site not on the Premises, Contractor shall be obligated to defend, indemnify and hold harmless Indemnitees under this Section 7.17.1 for such Claims or Losses only to the extent they are caused by the fault or negligence of Contractor, its employees, agents, Subcontractors or Vendors; (ii) with respect to any Claim or Loss not caused in whole or in part by the conduct, fault or negligence of Contractor, its employees, agents, Subcontractors or Vendors, (x) Contractor shall have no obligation whatsoever in respect of any such Claim or Loss arising or in any manner resulting from Work that is not performed on the Premises and (y) the obligations of Contractor pursuant to this clause (ii) shall in no event exceed \$20 million, inclusive of amounts paid by Contractor's insurers; and (iii) notwithstanding anything to the contrary contained in this Contract, Contractor shall have no obligation whatsoever to defend, indemnify and hold harmless USX pursuant to this Section 7.17.1 in respect of any Claim or Loss arising or in any manner resulting from Work that is not performed on the Premises.

7.17.2 Patent Indemnity. Contractor shall be solely responsible for the selection of methods and processes and for the operation of equipment used to carry out its work, and Contractor agrees to defend, indemnify, and hold harmless the Indemnitees from and against any and all Claims and Losses incident to any infringement or claimed infringement of any patent or license arising from the equipment used or the processes and methods practiced by Contractor in its performance of this Contract or in any way connected therewith.

7.17.3 Environmental Indemnity by Contractor. Contractor agrees to indemnify and hold harmless the Indemnitees, against and in respect of, any and all Claims and Losses that may be imposed upon, incurred by, or asserted against any of the

Indemnitees by any other party or parties (including, without limitation, a Governmental Authority), arising out of, in connection with, or relating to the subject matter of: (a) any Environmental Condition relevant to the Premises or any facilities or operations thereon, which Environmental Condition is caused by the operations of Contractor; and (b) any violation by Contractor of any Environmental Law with respect to the Premises or any facilities or operations thereon; provided that Contractor shall have no obligation under this Section 7.17.3 with respect to any Environmental Condition or any violation of any Environmental Law with respect to which USX is liable under Section 13.4 of the Tolling Agreement. This indemnity shall survive the expiration or termination of this Contract.

7.17.4 Enforcement of USX Environmental Indemnity.

Kenron agrees to use its best efforts to enforce the environmental indemnity provided by USX under Section 13.4 of the Tolling Agreement, for the benefit of Contractor.

7.17.5 Nonpayment.

Contractor agrees to defend, indemnify and hold harmless Indemnitees from Claims and Losses for nonpayment of amounts due Subcontractors, Vendors or others as a result of furnishing Work which amounts are payable by Contractor, provided Contractor has been paid, in accordance with the provisions of this Contract, all non-disputed amounts then due and payable hereunder for such Work.

7.17.6 Damage to Others.

Contractor shall conduct its operations so as not to damage existing structures or Work installed either by it, by other contractors, Subcontractors or by other Persons. Contractor shall repair or replace any real or personal property, including tools and equipment, belonging to Kenron, Lender or USX or their respective Affiliates which Contractor or its Subcontractors, Vendors or their employees or invitees may damage, destroy or remove while on the Premises or USX's premises, but excluding the Premises and any such property as may be designated for demolition or removal from the Premises.

7.17.7 Limitation of Indemnity.

In the event of any and all Claims and Losses whatsoever arising from the performance of the Work brought against any Indemnitee, the indemnification obligation under this Section 7.17, or any other section or part of this Contract, when combined with all other Contractor liabilities, liquidated damages and obligations under this Contract, shall be limited to, and shall in no event exceed, the Contract Price (as set forth in Section 4.1).

7.18 Interface/Coordination.

7.18.1 Ongoing Business.

During the progress of the Work, it may be necessary for employees of Kenron, USX, Lender or others to work in or about the Plant. Kenron reserves the right to afford such access to such employees or others as it deems necessary. Kenron shall, however, make all reasonable efforts

not to impede or interfere with the ongoing construction operations of the Contractor at the site of the Work.

7.19 Liens.

7.19.1 Waiver. In consideration of the execution by Kenron of this Contract, Contractor hereby waives and releases any and all rights of mechanic's lien and similar rights of lien for payment for services, labor, equipment or materials furnished by Contractor, Subcontractors or Vendors in performance of the Work or granted by law to persons supplying materials, equipment, services and other things of value to improve or modify land or structures thereon, which Contractor may have against the Work, the Plant, Kenron's or USX's premises, property belonging to Kenron and USX, or to either of them, or funds payable by Kenron to Contractor.

7.19.2 No lien contract. This Contract shall be and constitute a no lien contract under and to the full extent provided by the laws of the State of Indiana. Accordingly, neither Contractor nor any Subcontractor, mechanic, journeyman, laborer, or other person performing labor upon or furnishing materials or machinery for the Plant or the Premises or to any improvements erected or to be erected thereon shall have any right to file a mechanic's lien against the Facility. This Contract shall be prepared, executed, acknowledged and recorded in accordance with the requirements of the Indiana Code 32-9-3-1 in order to render invalid any lien or purported lien filed or sought by Contractor or any Subcontractor, mechanic, journeyman, laborer or person performing labor upon or furnishing materials or machinery for the Facility.

7.19.3 Remove Liens. Contractor shall at all times promptly pay for all services, materials, equipment, labor and items used or furnished by Contractor in the performance of the Work and shall at its expense keep the Work, the Plant, Kenron's and USX's premises and all property belonging to USX and Kenron, or to either of them, free and clear of any and all of the above-mentioned liens and rights of lien arising out of the performance of the Work.

7.19.4 Contractor's Obligation To Remove. If at any time any notices of lien or other encumbrances are filed for Work performed or product manufactured, furnished, or delivered to the Premises or any other location, notwithstanding the provisions of Section 7.19.2 above, Contractor shall, at its own cost and expense, promptly discharge, remove or otherwise dispose of the same by bond or provide other collateral acceptable to Kenron and Lender which shall be released by Kenron and Lender immediately upon the discharge, removal or other disposal of the same.

7.20 Risk of Loss. With respect to equipment and materials purchased by Contractor, and delivered to the Premises for incorporation into the Work, risk of loss shall pass to

Kenron upon the earlier of the Option Closing Date and Final Acceptance.

7.21 Assignment of Warranties and Guarantees. On the Final Acceptance Date, Contractor shall assign to Kenron, and Kenron shall assign to the Lender, by executing a document or documents substantially in the form of Part 8 of the Technical Construction Agreement, all warranties and guarantees that it procures from third parties on product incorporated into the Plant, and Contractor shall obtain from all such third parties consents to such assignments, substantially in the form of Part 9 of the Technical Construction Agreement. Contractor shall enforce all such warranties and guarantees as agent of Kenron during Contractor's Warranty Period and shall provide Kenron with all reasonable assistance in the enforcement of such warranties and guarantees whether or not such enforcement occurs during the Contractor's Warranty Period. Nothing in this Section 7.21 shall limit or otherwise affect Contractor's obligations under this Agreement, including without limitation obligations pursuant to Section 7.5 hereof.

7.22 Training of USX's Personnel.

7.22.1 Away From Gary Works. Contractor shall provide, or arrange for, or be responsible for, training and assistance at the facilities of either Armco in Ashland, Kentucky or Hoogovens Steel Works in IJmuiden, The Netherlands, of (i) five (5) to seven (7) persons employed by USX as technical staff or operations supervisors for one week in the development of a plan pursuant to which the operation of the Blast Furnaces will be modified for operation utilizing of pulverized coal; (ii) up to ten (10) persons employed by USX as operators of the Blast Furnaces for one week on injection of pulverized coal; and (iii) up to five (5) persons employed by USX for one week on the operation and maintenance of a pulverized coal injection system; however, except for charges imposed by Armco for assistance and instruction at Ashland, Kentucky, Contractor shall not be liable for any costs or expenses incurred by USX or its employees in attending any of the aforementioned meetings or courses.

7.22.2 At Gary Works. During Operational Testing (as such term is defined in the Tolling Agreement), Contractor shall provide, and be responsible for, employees of Armco with special knowledge of pulverized coal injection to assist USX to adjust operations of the Blast Furnaces for delivery of pulverized coal.

ARTICLE 8

SUBCONTRACTORS

8.1 No Contractual Relationship With Kenron. Nothing contained in the Contract Documents shall create any contractual relationship between Kenron and any Subcontractor.

8.2 Award of Subcontracts for Portions of the Work.

8.2.1 List of Subcontractors and Vendors. Except as otherwise specified by the Contract Documents, Contractor shall, as soon as practicable and before commencement of the sub-contracted Work, furnish to Kenron and Lender, in writing, a list of Subcontractors and Vendors proposed for each of the portions of the Work. The list need not include the name of any Subcontractor or Vendor receiving less than \$100,000 in the aggregate as compensation for its services, material, equipment, or Work for Contractor or another Subcontractor.

8.2.2 Kenron's Objections. Within fifteen (15) days of receipt of such list, Kenron and Lender may reasonably make objections to any Subcontractor or Vendor and submit a list to Contractor of such objections, if any, with the reasons for such objections. Contractor shall consider these objections in making final determinations on the selection of Subcontractors and Vendors.

8.2.3 Subcontractor Warranties. As a minimum, Contractor shall require that all Subcontractors and Vendors warrant that all equipment, materials and services are merchantable, of first class quality in every respect, are free from defects and fit for their intended purpose and that all materials used or provided are new and that upon notice from the Contractor or its assignee at any time during a period of one year after Final Acceptance of any defect in said equipment, materials or services, to furnish promptly, at Subcontractor's or Vendor's expense, as the case may be, all labor, materials and supplies necessary to correct such defect and to cause such equipment, materials and services to comply with the foregoing warranties.

8.3 Relations With Subcontractors. All Work performed for Contractor by a first-tier Subcontractor on the Premises shall be pursuant to an appropriate agreement constituting a no-lien contract pursuant to Indiana Code 32-8-3-1 between Contractor and the Subcontractor which shall contain provisions that:

8.3.1 reasonably preserve and protect all the rights of Kenron under the Contract and to the Work to be performed under the subcontract;

8.3.2 require that such Work be performed in strict accordance with the applicable requirements of the Contract Documents;

8.3.3 require each Subcontractor to provide and maintain adequate insurance consistent with its obligations related to the Contract.

8.3.4 Each subcontract and purchase order shall be assignable to Kenron and the Lender in the event of a termination

of this Contract by Kenron under the provisions of Article XV hereof. Contractor shall:

8.3.4.1 obligate each Subcontractor on the Premises to maintain confidentiality as provided in Section 7.11 hereof;

8.3.4.2 obligate each Subcontractor specifically to consent to the provisions of this Section 8.3; and

8.3.4.3 comply with Section 7.19 hereof.

8.3.5 Each such agreement shall be recorded in the manner and within the time specified by Indiana Code 32-8-3-1 and evidence of compliance therewith shall be promptly furnished to Kenron.

8.4 Payments to Subcontractors and Vendors.

8.4.1 Prompt Payment. Upon receipt of payment from or on behalf of Kenron, Contractor shall promptly pay each Subcontractor and Vendor.

8.4.2 No Obligation of Kenron. Kenron shall have no obligation to pay, or to cause the payment of, any moneys to any Subcontractor, Vendor, or any other Person acting through, under or on behalf of Contractor except as may otherwise be required by law.

ARTICLE 9

INSPECTION; UNCOVERING; CORRECTION; SPECIAL TESTING

9.1 Inspection. Contractor shall have the responsibility for inspection of all Work, including without limitation, start-up and performance testing of the Plant. In addition, in order that Kenron and the Lender's Engineer may at all times be fully advised of the progress of the Plant and the manner in which the Work is being performed, Contractor shall secure for Kenron, the Lender's Engineer and their designated representatives, the right to inspect all Work and the progress of the Plant. This right shall include the reasonable inspection of the manufacture and fabrication of all product at the factory of any Person from or through whom Contractor shall have acquired or purchased such product. Contractor shall keep Kenron and the Lender's Engineer advised of all opportunities for inspection and shall provide reasonable opportunity for the same. Such inspections by Kenron and/or the Lender's Engineer shall be conducted in a reasonable manner so as not to interfere with Contractor's performance and schedule. Kenron, Lender's Engineer and their designated representatives may participate in scheduled design reviews held in Contractor's offices and such persons shall receive reasonable advance notice of such reviews.

9.2 Uncovering of Work. If any Work has been covered that (i) Kenron or the Lender's Engineer has specifically requested to observe prior to being covered or (ii) the Contract Documents intend to be inspected by Kenron or the Lender's Engineer prior to its covering and Contractor has not provided Kenron or the Lender's Engineer reasonable notice and opportunity to inspect, Kenron or the Lender's Engineer may request that such Work be uncovered for inspection and be recovered by Contractor, which uncovering and recovering shall be done by Contractor at its expense regardless of the results of the inspection. At the request of Kenron or the Lender's Engineer, Contractor shall uncover any additional Work. If, upon inspection, such additional Work is found to be defective or otherwise unsatisfactory, Contractor shall bear all costs incurred in uncovering, inspecting, correcting and recovering such Work. If such additional Work is not defective or unsatisfactory, all such costs shall be borne by Kenron and an appropriate Change Order shall be issued.

9.3 Correction of Work. This Document is the property of the Lake County Recorder!

9.3.1 Obligation of Contractor to Correct. Contractor shall promptly correct all Work which is rightfully rejected by Kenron.

9.3.2 Removal. All such Work shall be removed from the Premises, if necessary, and shall be corrected without cost to Kenron.

9.3.3 Other Work Damaged. Contractor shall bear the cost of making good all such Work, and all other Work destroyed or damaged by Contractor's removal or correction of such Work.

9.4 Special Tests.

9.4.1 Inspection, Testing and Approval. If laws, ordinances, rules, regulations or orders of any Governmental Agency require any portion of the Work to be inspected, tested or approved, Contractor shall comply with any such requirement and shall give Kenron and Lender's Engineer timely notice (at least ten (10) calendar days in advance) of its readiness to comply so that they may observe such inspections, testing or approval. All costs of such inspection, tests and approvals shall be part of the Work.

9.4.2 Schedule. Within ninety (90) days after the Construction Commencement Date, Contractor and Kenron, with Lender's approval, shall set forth in writing a schedule for any Work that will require special inspection, testing or approval that Section 9.4.1 does not include, and Contractor shall conduct such tests as part of the Work and shall give Kenron and Lender's Engineer timely notice (at least ten (10) calendar days in advance) of any such tests.

9.4.3 Kenron's Required Testing. If Kenron or Lender determines that any other portion of the Work requires testing that Sections 9.4.1 and 9.4.2 do not include, it will inform Contractor of the determination including the reasons therefor. An appropriate Change Order shall be issued (subject to approval by Lender, which approval shall not be unreasonably withheld) equitably extending the Scheduled Mechanical Completion Date, Scheduled Tolling Commencement Date, and Scheduled Final Acceptance Date, as well as the bonus and liquidated damages dates.

9.4.4 Test Results. Certification of the results of any testing pursuant to Sections 9.4.1, 9.4.2 and 9.4.3 shall be prepared or secured by Contractor and promptly delivered to Kenron and Lender and Kenron and Lender's Engineer shall have the right to observe all testing.

9.4.5 Obligations. Neither any special testing under Sections 9.4.1, 9.4.2 and 9.4.3 nor any observations by others shall relieve Contractor from its obligations to perform the Work in accordance with the Contract documents.

ARTICLE 10

ACCEPTANCE

10.1 Mechanical Completion.

10.1.1 Notice of Mechanical Completion. When Contractor believes that the Plant is, for functional purposes, mechanically, electrically and structurally complete, substantially all construction tests, electrical tests, control checkout and flushing for construction cleanliness have been completed, the Plant is accessible, operable and ready for start-up testing, preliminary operations and Performance Tests, there being only minor construction work (such as, but not limited to, minor cleanup, painting and insulation) and nonessential and/or redundant equipment which does not affect the operability or maintainability of the Plant, remaining to be completed ("Mechanical Completion"), Contractor may declare Mechanical Completion and shall so notify Kenron and Lender in writing, specifying in punchlist form (which punchlist shall specify that, at most, Work having a value of 2-1/2% of the Contract Price remains to be completed prior to or in connection with Mechanical Completion) the items remaining to be completed and the estimated time and cost for completion of each such item including supporting documentation for such time and cost estimates and proposing a schedule for start-up testing, preliminary operation, performance of Performance Tests and other activities to be completed after Mechanical Completion. Contractor shall provide or make available any documents, plans, drawings or other related information pertaining to verification of Mechanical Completion that Kenron or Lender may reasonably request.

If Kenron or Lender has not provided notice of any deficiency or disagreement with Contractor's notice within fifteen (15) days, then Mechanical Completion shall be deemed to have occurred as of the date of the original Contractor notice. If such a notice of deficiency or disagreement is delivered by Kenron or Lender, then Contractor, Kenron, and Lender shall cooperate to work on correcting such deficiency or disagreement until such corrections have been completed, whereupon the Mechanical Completion Date shall be deemed to have occurred as of the date of the original Contractor notice; provided, however, that should deficiencies be required to be remedied which are of a more substantive type than is appropriately satisfied on a punchlist the cost of which, together with the cost of the other Work that remains to be completed prior to or in connection with Mechanical Completion, exceeds 2 1/2% of the Contract Price, such date of Mechanical Completion shall be delayed until such deficiencies are reasonably corrected.

10.1.2 Partial Acceptance. Start-up testing, preliminary operation of the Plant, and Performance Tests may be conducted on selected subsystems and equipment prior to the time when the Contractor has achieved Mechanical Completion.

10.2 Preliminary Testing.

10.2.1 Start-up Tests - Individual Equipment/Subsystems. Contractor shall perform Start-up Tests on each subsystem when it is mechanically complete. Contractor shall give at least five (5) days' prior written notice to Kenron, Lender, and USX so they may designate and make available representatives to observe the Start-up Tests and confirm compliance with (i) the requirements and procedures of the start-up testing program as set forth in Part 2-B of the Technical Construction Agreement and (ii) the Start-up Test requirements of Part 4 of the Technical Construction Agreement. Subject to Sections 5.1 and 9.3 hereof, Contractor may, at its discretion, perform and reperform additional Start-up Tests until it is ready to perform the Performance Tests in accordance with Section 10.2.2 or Operational Testing in accordance with Section 10.3, provided that if the Start-up Tests have failed twice before, Contractor must reasonably demonstrate to Kenron's and Lender's reasonable satisfaction what corrective measures have been taken and why it is believed that the Start-up Tests may then be satisfied. Contractor shall keep Kenron, Lender, and USX continuously apprised in advance of the specific Start-up Test schedule and changes thereto. Contractor, at its discretion, may abort any Start-up Test.

10.2.2 Performance Tests. Upon completion of the Start-up Tests on the relevant subsystems and process equipment identified in Part 4 of the Technical Construction Agreement, Contractor shall perform Performance Tests pursuant to Part 5 of the Technical Construction Agreement. Contractor shall give at least ten (10) days' prior written notice to Kenron, Lender, and USX so they may designate and make available representatives to

observe the Performance Tests and confirm compliance with Performance Tests requirements of Part 5 of the Technical Construction Agreement. Subject to Sections 5.1 and 9.3 hereof, Contractor may, at its discretion, perform and reperform additional Performance Tests until it is ready to perform the Operational Testing in accordance with Section 10.3, provided that if the Performance Tests have failed twice before, Contractor must reasonably demonstrate to Kenron's and Lender's reasonable satisfaction what corrective measures have been taken and why it is believed that the Performance Tests may then be satisfied. Contractor shall keep Kenron, Lender and USX continuously apprised in advance of the specific Performance Test schedule and changes thereto. Contractor, at its discretion, may abort any Performance Test.

10.3 Operational Testing. Upon completion of the Start-up Tests and Performance Tests, Contractor shall commence Operational Testing; provided, however, that Contractor shall give at least five (5) days' prior written notice to Kenron, Lender and USX so that they may designate and make available representatives to observe such Operational Testing. Subject to Sections 5.1 and 9.3 hereof, Contractor shall deliver pulverized coal, and Kenron shall accept, and Kenron shall use its best efforts to cause USX to accept, such pulverized coal delivered pursuant to procedures proposed by Contractor and approved by Kenron (which approval shall not be withheld or delayed unreasonably) for beginning rates of injection of pulverized coal to one or more of the Blast Furnaces and to enable Contractor to commence operation of the Plant on a more or less continuous basis, at least for a single pulverizer, and to conduct low rate operational testing ("Operational Testing"). Contractor may reduce the level of performance of the Facility as necessary for making adjustments to the Facility.

10.4 Plant Demonstration. Upon certification by Contractor to Kenron and Lender of the completion of Start-up Tests, Performance Tests (in accordance with the procedures approved by Kenron and Lender as contemplated by Part 5 of the Technical Construction Agreement and achievement of the Performance Test requirements of Part 5 of the Technical Construction Agreement) and Operational Testing, Contractor shall demonstrate that the Facility can and does deliver pulverized coal at ninety-eight percent (98%) of the Required Rate for a one-month period and accomplish Plant Demonstration. Contractor shall give at least two (2) days' prior written notice to Kenron, Lender, and USX so they may designate and make available representatives to observe the Plant Demonstration and confirm compliance with the required delivery levels to achieve Plant Demonstration. Subject to Sections 5.1 and 9.3 hereof, Contractor may, at its discretion, continue such testing until the requirements of Plant Demonstration have been achieved provided that if the Plant Demonstration has failed twice before, Contractor must reasonably demonstrate to Kenron's and Lender's satisfaction what corrective measures have been taken and why it is believed that the Plant Demonstration may then be completed

successfully. Contractor shall keep Kenron, Lender, and USX continuously apprised in advance of the Plant Demonstration schedule and changes thereto.

10.5 Tolling Commencement.

10.5.1 Notice of Completion of Plant Demonstration by Contractor. Upon completion of the requirements of Plant Demonstration, Contractor shall declare that the Plant Demonstration is complete and provide notice to Kenron, Lender and Lender's Engineer that Kenron and USX can declare Tolling Commencement. Notwithstanding any provision in this paragraph 10.5.1 to the contrary, Kenron and USX will make the final decision as to the contractual date of Tolling Commencement pursuant to the Tolling Agreement; provided, however, that the date at which Tolling Commencement shall be deemed to have occurred under the provisions of this Contract shall be the actual date when all requirements are completed to allow Kenron to declare Tolling Commencement.

10.5.2 Declaration of Tolling Commencement by Kenron. When the contractor has completed the Plant Demonstration, any approvals required by any Governmental Agency regulating the operation of the Plant have been obtained, all components and systems of the Plant are substantially complete in accordance with the Contract Documents, Kenron shall declare the Plant Demonstration accomplished, provided that the conditions necessary for Kenron to declare Tolling Commencement have occurred under the terms of the Tolling Agreement.

10.5.3 Certain Limitations of Contractor's Rights Upon Declaration of Tolling Commencement. Notwithstanding anything to the contrary set forth in this Agreement, and notwithstanding any declaration by USX of Tolling Commencement, Kenron shall not be obligated to make any payment to Contractor in respect of the Testing Milestones or to release any retention or Retainage Letter of Credit unless and until such time as, in the reasonable judgment of Kenron and Lender, (a) the Performance Tests have been completed in accordance with procedures approved by Kenron and Lender as contemplated by Part 5 of the Technical Construction Agreement and (b) the testing requirements set forth in Part 5 of the Technical Construction Agreement have been achieved.

10.6 Final Acceptance.

10.6.1 Preliminary Inspection. At any time which is no more than thirty (30) days prior to the expected notification by the Contractor to Kenron pursuant to the provisions of Section 10.5.1, or at any time following such actual notification, the Contractor may submit a report containing the information specified in Part 5 of the Technical Construction Agreement (the "Contract Completion Report"), final as-built drawings, and the Final Acceptance Punchlist to Kenron, the Lender and the Lender's Engineer accompanied by notice of a proposed preliminary

inspection date (the "Preliminary Inspection Date"), which date shall be no earlier than five (5) days following the latest receipt of such notice by any recipient. On or before the Preliminary Inspection Date, Kenron and Lender's Engineer, and such other parties as may be interested, shall make an inspection of the Plant and promptly, but in no event later than ten (10) days thereafter, shall give written notice ("Preliminary Inspection Comments") to Contractor either (i) acknowledging the completeness and correctness of the Contract Completion Report and the Final Acceptance Punchlist or (ii) specifying in what respects it is materially incomplete or incorrect and providing a list of defects, discrepancies and omissions in the Plant or its testing.

10.6.2 Final Acceptance. Upon completion of Start-Up Tests, Performance Tests, Operational Testing and Plant Demonstration, Contractor may declare Final Acceptance of the Plant and submit notice of such declaration to Kenron, Lender and Lender's Engineer, which notice shall be substantially in the form of Part 10 of the Technical Construction Agreement, including Contractor's certification of the completion of the Plant Demonstration. At any time following the date on which Contractor is due to receive the Preliminary Inspection Comments and complete the Final Acceptance Punchlist, Contractor may schedule a final inspection of the Plant and submit notice to Kenron, Lender and Lender's Engineer of such date (the "Final Inspection Date"), which date shall be no earlier than five (5) days following the latest receipt of such notice by any recipient. On the Final Inspection Date, Kenron and Lender's Engineer, and such other parties as may be interested, shall make a final inspection of the Plant. If as a result of such inspection or otherwise, Kenron and Lender's Engineer are satisfied that the Plant has been completed in accordance with the Contract Documents and has completed the required tests, Kenron and Lender shall accept Contractor's declaration of Final Acceptance as of the later of the Final Inspection Date and the completion of the Plant Demonstration; provided, however, if Kenron and Lender's Engineer are not so satisfied, Kenron and Lender's Engineer shall promptly specify to Contractor in what respects the Final Acceptance Punchlist is materially incomplete or incorrect and provide Contractor with a list of defects, discrepancies and omissions in the completion of the Final Acceptance Punchlist (the "Final Inspection Comments"), and upon the final completion of all such listed Final Acceptance Punchlist items, Kenron and Lender shall accept Contractor's declaration of Final Acceptance as of the date of such final completion.

10.7 Revenue During Tests and Plant Demonstration. During all Start-up Tests, Performance Tests and Plant Demonstration, Contractor shall be entitled to all revenues generated or earned by the Plant. Following Tolling Commencement, Kenron shall be entitled to all revenues generated or earned by the Plant.

10.8 No Restriction on Rights. Nothing contained in this Article 10 is intended to enhance or diminish the rights and obligations of the Parties as described in the Contract Documents.

ARTICLE 11

INSURANCE AND BONDS

11.1 Contractor Insurance. Without limiting any of the other obligations or liabilities of the Contractor, Contractor shall at all times carry and maintain at its own expense with insurers, in such amounts and with deductibles or self-insured retentions as shall be reasonably acceptable to Kenron, the following:

11.1.1 Worker's compensation insurance written with statutory limits including a stop gap endorsement and all states endorsement.

11.1.2 Employer's Liability insurance in an amount not less than one million dollars (\$1,000,000).

11.1.3 Comprehensive General Liability insurance written on an occurrence basis with a combined single limit of not less than one million dollars (\$1,000,000). Such coverage shall include, but not be limited to, premises/operations, explosion, collapse and underground hazard (xcu), broad form contractual, products/completed operations, independent contractors, broad form property damage and personal injury and shall not contain an exclusion for impounded water.

11.1.4 Comprehensive Auto Liability insurance for all owned, non-owned and hired vehicles written in an amount not less than one million dollars (\$1,000,000).

11.1.5 Umbrella and Excess Liability insurance written on an occurrence basis in an amount of not less than twenty-four million dollars (\$24,000,000) providing coverage in excess of the primary Employer's Liability, General Liability, and Auto Liability insurance specified above.

Contractor shall further require its Subcontractors to carry Worker's Compensation and, in the reasonable opinion of Contractor, appropriate comprehensive General Liability and Automobile Liability coverage during their on-site operations.

11.2 Property Damage. Contractor shall maintain all risk builder's insurance, covering physical loss or damage to the Facility, including coverages against fire and extended coverage against collapse, liquid damage, earthquake, flood and comprehensive boiler and machinery damage (including electrical malfunction and mechanical breakdown) including production equipment and any and all materials, equipment and machinery

intended for the Facility. Such insurance shall cover items during construction and testing as well as during off-site storage, inland transit and ocean and air transit. The ocean and air transit policy shall be on a "warehouse to warehouse" basis, or if such ocean and air transit policy is not available under all risk builder's policy, similar coverage through a cargo/transit policy. The all risk builder's risk coverage shall not contain an exclusion for resultant damage caused by faulty workmanship or materials and shall not contain an exclusion for equipment under guarantee or warranty. Coverage shall be written on a replacement cost basis and in an amount reasonably acceptable to Lender, but in no event less than the replacement cost of the Facility. Such policy or policies shall contain a valid agreed amount endorsement and be written with deductibles not in excess of one hundred thousand dollars (\$100,000). Such deductibles shall be the sole responsibility of the Contractor.

11.3 Cost of Delayed Opening. Contractor shall maintain or cause to be maintained: (i) cost of delayed opening insurance covering loss of net profits and continuing expenses, including interest payments, at the Facility, and while equipment and materials intended for the Facility are in transit or in off-site storage; (ii) contingent business interruption insurance on critical path items while such equipment is at the manufacturer's site; (iii) in the event of ocean or air shipments, marine business interruption on ocean cargo and air shipments insurance, on a "warehouse to warehouse" basis which may be procured separately immediately prior to such ocean or air shipments; and (iv) expediting expense insurance on the Facility. Such policy or policies shall be written with an amount reasonably acceptable to Kenron and Lender and shall contain a valid agreed amount endorsement and be written with deductibles not greater than fifteen (15) days. Such deductibles shall be the sole responsibility of Contractor.

Any insurance carried in accordance with this Article 11 shall be endorsed to provide: (i) with respect to the insurance maintained in accordance with Sections 11.2 and 11.3, Kenron and Lender shall be included as a named insured and Lender as an additional insured with respect to Sections 11.1.3, 11.1.4, and 11.1.5 with the understanding that any obligation imposed upon Contractor (including the liability to pay premiums) shall be the sole obligation of Contractor; (ii) losses with respect to Sections 11.2 and 11.3, if any, in respect of the Work shall be payable to Kenron and assigned to Lender; (iii) with respect to coverages afforded by Sections 11.2 and 11.3, the interests of Kenron and Lender shall not be invalidated by any action or inaction of Contractor or any other person and shall insure Lender regardless of any breach or violation by Contractor or any other person of any warranties, declarations or conditions in such policies; (iv) the insurer thereunder shall waive all rights of subrogation against Kenron and Lender; (v) such insurance shall be primary without right of contribution of any other insurance carried by Kenron or Lender or by any Affiliate of Kenron or Lender with respect to its interest as such in the

Work; (vi) if such insurance is canceled for any reason whatsoever, or any material change is made in the coverage which adversely affects the interest of Kenron or Lender, such cancellation or change shall not be effective as to Kenron or Lender for thirty (30) days (with the exception that such cancellation or change shall not be effective for a period of ten (10) days for nonpayment of premium) after receipt by Kenron and Lender of written notice sent by registered mail from such insurer of such cancellation or change; and (vii) any insurance carried in accordance with Sections 11.1.3, 11.1.4 and 11.1.5 shall be endorsed to provide that, inasmuch as the policy is written to cover more than one insured, all terms, exceptions of limits of liability, shall operate in the same manner as if there were a separate policy covering each insured.

11.4 Evidence of Insurance. On the date hereof and on each anniversary hereof, Contractor shall furnish Kenron and Lender with approved certificates, binders or confirmation of all required insurance. Such binders shall be executed by each insurer or by an authorized representative of each insurer where it is not practical for such insurer to execute the certificate itself. Such binder shall identify underwriters, the type of insurance, the insurance limits and the policy term, shall specifically list the special endorsements enumerated for such insurance required by and with respect to insurance required under this Article 11. Upon reasonable notice and request, Contractor shall furnish Kenron and Lender with copies of all insurance policies, binders and cover notes or other evidence of such insurance relating to the Facility.

11.5 Insurance Report. Concurrently with the furnishing of the binders referred to in Section 11.4, Contractor shall furnish Kenron and Lender with an opinion of each insurance broker stating that all premiums then due have been paid and that, in the opinion of such broker, the insurance then carried and maintained with respect to the Work is in accordance with the relevant terms of this Article 11. Furthermore, Contractor shall use its best efforts to cause such insurer or such broker to advise Kenron and Lender promptly in writing of any default in the payment of any premium or any other act or omission on the part of the Contractor which, in the reasonable opinion of such insurer or such broker, might invalidate or render unenforceable, in whole or in part, any insurance provided by such insurer or such broker under this Article 11. In the event that Contractor does not provide insurance required pursuant to this Article 11, Kenron or Lender may, in the sole discretion of either, obtain such insurance and, in such event, Contractor shall reimburse Kenron or Lender upon demand for the cost of such insurance.

11.6 Performance and Payment Bonds or Letter of Credit. (a) Contractor shall obtain and maintain in full force and effect, either (i) a performance and payment bond issued by a surety company reasonably acceptable to Kenron and Lender (the "Bond") or (ii) a letter of credit, such letter of credit to be issued by an Acceptable Bank in the form of Part 12 of the

Technical Construction Agreement (the "Performance Letter of Credit"), which shall be held by Kenron as security for all payment, performance, material and other obligations of Contractor pursuant to this Contract. The Bond or Performance Letter of Credit shall be issued in favor of Kenron, and assigned to the Lender, in an amount equal to eighteen million nine hundred fifty thousand dollars (\$18,950,000) (the "Initial Amount"), which Initial Amount shall be reduced to three million dollars (\$3,000,000) (the "Warranty Period Amount") upon Final Acceptance, and such Bond or Performance Letter of Credit shall remain in place for a period of one year from the Final Acceptance Date. Kenron may draw under the Bond or Performance Letter of Credit, as the case may be, at any time and from time to time upon the occurrence and during the continuance of an Event of Default in which event the proceeds of such drawing shall be applied to the payment of amounts due from Contractor hereunder (including pursuant to Section 3.5.1 or Section 3.5.2), costs and expenses incurred to complete the Work or Losses arising from such Event of Default, as applicable; provided, however, that if such Event of Default does not relate to Contractor's failure to pay as the property hereunder (including pursuant to Section 3.5.1 or Section 3.5.2), Kenron shall not be permitted to make drawings under the Bond or Performance Letter of Credit, as the case may be, unless and until the sum of (i) payments made under this Contract to Contractor on or prior to the date of such drawing and (ii) the aggregate amount of costs and expenses incurred to complete the Work and Losses arising from Events of Default hereunder, in each case incurred on or prior to the date of such drawing, shall exceed the Contract Price.

(b) The Performance Letter of Credit may have an initial term of one year and provide for annual extensions thereof for additional periods of at least one year so long as the Performance Letter of Credit shall provide that, notwithstanding any final expiration date of such Retainage Letter of Credit, written notice shall be given to Kenron not later than 30 calendar days prior to the then-scheduled expiration date of such Letter of Credit if such Letter of Credit has been extended for an additional period of at least one year, and, if such notice has not been provided, the Performance LOC Amount may be drawn under such Letter of Credit and retained by Kenron as collateral security for the obligations set forth in paragraph (a) above, and Kenron may apply such amount (or any portion thereof) at any such time in satisfaction of such obligations until such time as Contractor shall provide to Kenron a replacement Performance Letter of Credit satisfying the requirements of this Section 11.6.

(c) The Performance Letter of Credit shall (i) have an amount available to be drawn thereunder (x) as of any date prior to the Final Acceptance Date, equal to at least the Initial Amount, and (y) as of any date on or after the Final Acceptance Date, equal to the Warranty Period Amount, (ii) permit partial drawings, (iii) permit any beneficiary thereof to assign all or

any part of its interest therein without consent of the issuing bank or Contractor and (iv) have an original stated term of not less than one year.

(d) The Performance Letter of Credit at the time of its delivery to Kenron shall be issued by a Person that is an Acceptable Bank. If at any time after the delivery of such Letter of Credit to Kenron such Person shall cease to be an Acceptable Bank solely because such Person's long-term debt securities or its holding company's long-term debt securities are rated less than AA- by Standard & Poor's Corporation and less than Aa3 by Moody's Investors Service Inc. but such Person's long-term debt securities or its holding company's long-term debt securities continue to be rated at least A or better by Standard & Poor's Corporation or at least A-3 by Moody's Investors Service Inc., then on or prior to the next anniversary of the date such Letter of Credit was initially delivered to Kenron or, if such rating decline occurred during the 90-day period preceding such next anniversary, on or prior to the date that is 90 days after the date on which such rating decline occurred, Contractor shall deliver to Kenron a replacement Performance Letter of Credit issued by an Acceptable Bank and otherwise complying with the provisions of this Section 11.6. If at any time after the delivery of such Letter of Credit to Kenron, such Person shall cease to be an Acceptable Bank for any reason other than under the circumstances set forth in the preceding sentence, then on or prior to the date that is 90 days after the date on which such Person ceased to be an Acceptable Bank, Contractor shall deliver to Kenron a replacement Performance Letter of Credit issued by an Acceptable Bank and otherwise complying with the provisions of this Section 11.6. If Contractor shall not so deliver any replacement Performance Letter of Credit as contemplated by this Section 11.6, Kenron shall be entitled to draw the full amount of such Letter of Credit and to retain such amount as collateral security for the obligations set forth in paragraph (a) above and to apply such amount (or any portion thereof) at any time in satisfaction of such obligations, until such time as Contractor shall provide to Kenron a replacement Performance Letter of Credit satisfying the requirements of this Section 11.6.

ARTICLE 12

CHANGES AND EXTRA WORK

12.1 Change Orders. Kenron may, after prior consultation with Contractor, by written Change Order, make changes within the general scope of the Work. If any such change results in an increase or decrease in the cost or time required for the performance of any part of the Work under this Contract, there shall be an equitable adjustment to the Contract Price, the Scheduled Mechanical Completion Date, the Scheduled Tolling Commencement Date and the Scheduled Final Acceptance Date. Contractor shall not be obliged to proceed with the changed or extra work if the value of such changes or extra work and the

effect on the schedule of completion of the Work have not been agreed upon and effected by the Change Order. The Change Order shall specify changes to the Milestone Payment Schedule and any changes to the Contract Price, the Scheduled Tracking Milestone Dates, the Scheduled Mechanical Completion Date, the Scheduled Tolling Commencement Date and the Scheduled Final Acceptance Date. It is expressly understood by the parties that any such Change Order affecting the Milestone Payment Schedule, the Contract Price, any Scheduled Tracking Milestone Date, the Scheduled Final Acceptance Date, liquidated damages or bonus dates, the utility, useful life or capacity of the Facility, the characteristics or quantity of the pulverized coal or any other matter requiring the consent of Lender hereunder, must be approved by Kenron and the Lender, in advance in writing; provided, however, that if the cost of such Change Order is to be paid or financed by USX under the terms of the Tolling Agreement, such approvals shall not be unreasonably withheld.

12.2 Premises Obstructions. If Contractor encounters an Underground obstruction, skull, of scrap or other construction impediment in the course of construction and such site obstruction was not disclosed in any drawings, specifications or other written information supplied by USX to Contractor or discovered by Contractor or should have been discovered by Contractor in the course of its visits to the Premises at any time prior to the date of this Contract, Contractor shall notify Kenron, USX and Lender and the method and cost of dealing with such site obstruction shall be borne by Contractor (on behalf of Kenron) or USX as set forth in Section 6.4(a) of the Tolling Agreement; provided, however, that if the method or cost of dealing with such site obstruction requires a Change Order under this Contract, then Kenron's and Lender's approval of such Change Order shall not be unreasonably withheld.

12.3 Environmental Matters. If Contractor is required in the course of the construction of the Facility or as a result of any delay in such construction either (x) to comply with a change in any Environmental Law made after the date hereof, or (y) to remedy any Environmental Condition existing on the date hereof or any future such condition not caused by Contractor which violates any Environmental Law now or hereafter existing or which creates a duty to incur expenses or costs related to such Environmental Condition under existing or future federal, state or local government regulations, Contractor shall immediately notify Kenron, USX and Lender, and the method and cost of complying with such Environmental Law or remedying such Environmental Condition shall be borne as set forth in Section 6.4(b) of the Tolling Agreement; provided, however, that if the method or cost of such remedy or compliance requires a Change Order under this Contract, then Kenron's and Lender's approval of such Change Order shall not be unreasonably withheld.

12.4 Delays. If Contractor is delayed during the construction of the Plant by acts, inactions or omissions of USX (including any strike by USX employees), or both, Contractor

shall immediately notify Kenron and Lender thereof, and provided and to the extent that USX is liable to Kenron under the Tolling Agreement for such delays, such delays shall have the same effect as a change initiated by Kenron pursuant to Section 12.1 hereof.

12.5 Force Majeure. If Contractor's performance is suspended or delayed by one or a number of events of Force Majeure, Contractor shall be entitled to an equitable adjustment of the project schedule and all related timeframes reflecting the actual impact of the delaying event or condition. Any adjustment to the project schedule or other related timeframes shall be implemented by a Change Order.

12.6 Contractor's Claim for Delay. No adjustment will be made if the performance by Contractor would have been prevented by other causes even if the Work had not been suspended, delayed or interrupted by Kenron pursuant to Sections 12.4 or 12.5 hereof. Contractor shall, within fourteen (14) days from the occurrence of any suspension, delay or interruption or claim of Force Majeure covered herein giving rise to a delay for which Contractor seeks adjustment hereunder; give Kenron written notice of Contractor's potential claim as a result thereof. No claim will be allowed under this Article for any costs incurred more than fourteen (14) days prior to Contractor's giving such notice. Contractor shall submit in writing not later than thirty (30) days after the termination of such suspension, delay or interruption, the amount of the claim and a breakdown of how the amount was computed. Any Controversy concerning whether the delay or suspension was unreasonable or any other question of fact arising under this Section 12.6 will be determined by Kenron (subject to Contractor's right of appeal pursuant to the terms of Article 20). Failure of Contractor to give such written notice to Kenron of any such claim shall be a waiver by Contractor of such claim, time being of the essence in the giving of such notice.

12.7 Contractor Changes. Contractor reserves the right to make, at any time, with the concurrence of Kenron and Lender, such changes in details of design, construction, arrangement or equipment as shall, in its judgment based on sound engineering principles, constitute an improvement over current practice. Such changes shall not result in any increase in the Contract Price, time of performance or adversely effect the performance criteria or the maintainability, operating expense or reliability of the Plant.

12.8 Change Authorizations. All changes made by Kenron, with or without adjustment in the Contract Price or time of performance, shall be authorized by Change Order, except for changes necessitated by emergencies endangering life or property. Contractor shall not perform any such Change Orders until Kenron and Lender have approved in writing the proposed adjustments or have expressly authorized Contractor in writing to perform the Change Order prior to such approval. Upon receiving such written approval or such written authorization to perform, Contractor

shall diligently perform the Change Order in accordance with and subject to all of the terms of this Contract.

12.9 Price Changes. The price and schedule impact of any such extra Work or Change Order shall be determined by mutual agreement of the parties, but such price adjustment shall in no event be less than the price adjustment and/or schedule impact (if any) granted by USX to Kenron under the corresponding change to the Tolling Agreement.

12.10 Minor Changes in the Work. Kenron shall have authority to order minor changes in the Work not involving an increase in Contractor's cost or time of performance or an extension of the Scheduled Mechanical Completion Date, Scheduled Tolling Commencement Date, or Scheduled Final Acceptance Date and not inconsistent with the intent of the Contract Documents. Such changes must be either communicated or ratified in writing by Kenron, and shall be binding upon the Contractor.

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TITLE

13.1 Title. Title to the Plant and each item of equipment shall pass to Kenron on the receipt of such equipment by Contractor at the Premises; provided, however, that in accordance with Section 7.20 hereof, risk of loss in respect thereof shall remain with Contractor until the earlier of the Option Closing Date and Final Acceptance. Without limiting the generality of the foregoing, it is expressly understood and agreed that the passage of title shall not reduce, modify or affect Contractor's obligations of care for and custody of the Facility and shall not release Contractor from Contractor's responsibility to use due care in handling, installing, and starting up the equipment, and to fully carry out its obligations under this Contract.

ARTICLE 14

PROTECTION OF PERSONS AND PROPERTY

14.1 Safety Precautions and Programs. Contractor shall be responsible for initiating, maintaining and supervising all necessary safety precautions and programs in connection with the Work and shall comply with all applicable safety laws, rules, orders, standards, codes and regulations.

14.2 Safety of Persons and Property.

14.2.1 Safety. Contractor shall take all necessary precautions for the safety of, and shall provide all necessary protection to prevent damage, injury or loss to:

14.2.1.1 all employees doing the Work and all other Persons who may be affected thereby;

14.2.1.2 all the Work and all product to be incorporated therein, whether in storage on or off the Premises, under the care, custody or control of Contractor or any Subcontractor; and

14.2.1.3 other property at the Premises or adjacent thereto, including without limitation, trees, shrubs, lawns, walks, pavements, roadways, temporary and permanent structures and signs, equipment, conduits and utilities whether or not designated for removal, relocation or replacement in the course of the Work.

14.2.2 Compliance With Safety Laws. Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any Governmental Agency bearing on the safety of persons or property or their protection from damage, injury or loss. Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for the safety and protection of its employees and others on or near the Premises. When the use or storage of explosives or other hazardous materials or equipment is necessary for the performance of Work, Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel in accordance with applicable requirements of Governmental Authorities having jurisdiction.

14.2.3 Emergency. In any emergency affecting the safety of persons or property, Contractor shall act immediately to prevent threatened damages, injury or loss.

ARTICLE 15

TERMINATION AND SUSPENSION FOR DEFAULT

15.1 Events of Default by Contractor. Kenron may terminate this Contract upon the occurrence of a default by the Contractor ("Event of Default") as provided below:

15.1.1 The dissolution or liquidation of Contractor; or the failure of Contractor within sixty (60) days to lift any execution, garnishment or attachment of such consequence as may materially impair its ability to perform the Work; or Contractor is generally not paying its debts as such debts become due; or Contractor makes an assignment for the benefit of creditors, commences (as the debtor) a voluntary case in bankruptcy under the Federal Bankruptcy Code (as now or hereafter in effect) or

commences (as the debtor) any proceeding under any other insolvency law; or a case in bankruptcy or any proceeding under any other insolvency law is commenced against Contractor (as the debtor) and a court having jurisdiction enters a decree or order for relief against Contractor as the debtor in such case or proceeding, or such case or proceeding is consented to by Contractor or remains undismissed for a period of sixty (60) days, or Contractor consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver, custodian, liquidator or agent (however named) is appointed to administer part of the property of Contractor for the purpose of general administration of such property for the benefit of creditors; or Contractor takes any corporate action for the purpose of effecting any of the foregoing;

15.1.2 The failure of Contractor to observe or perform any material covenant, condition, agreement or undertaking hereunder on its part to be observed or performed for a period of ten (10) days (or thirty (30) days if Contractor is diligently pursuing a cure) after notice specifying such failure and requesting that it be remedied is given to Contractor, unless Kenron and Lender shall agree, in writing, to an extension of such time prior to its expiration;

15.1.3 Any representation or warranty of Contractor herein is false or misleading in any material respect, or becomes false or misleading in any material respect;

15.1.4 In addition to the Events of Default described above, it shall be an Event of Default by Contractor if Contractor fails to achieve all conditions precedent to Final Acceptance by the Scheduled Final Acceptance Date. Such an Event of Default shall entitle Kenron to exercise remedies provided in Section 3.5.2 hereof without allowing Contractor the opportunity to cure as provided therein or in Section 15.2;

15.1.5 The failure of Contractor to maintain the insurance coverage required by Article XI hereof;

15.1.6 The failure of Contractor to comply with Section 3.1(b); or

15.1.7 The failure to comply with Section 4.3(d) or 11.6(d).

15.2 Remedies on Default by Contractor.

15.2.1 Upon the occurrence of an Event of Default by Contractor, Kenron, with Lender's written consent, shall notify Contractor and its surety (if any) in writing of the nature of the default and of Kenron's intention to terminate this Contract for default. If Contractor fails to provide reasonable evidence that such default does not in fact exist within 5 days of receipt of such notification, Kenron may, upon written notice to Contractor, terminate Contractor's right to proceed with the Work

and, subject to the provisions of Sections 4.3(a) and 11.6(a), Kenron may collect on the Bond or the Performance Letter of Credit, as the case may be, and the Retainage Letter of Credit in accordance with the respective terms thereof. Notwithstanding anything to the contrary set forth herein, any collections made by Kenron on the Bond, the Performance Letter of Credit and the Retainage Letter of Credit shall be made in accordance with the following priorities: (i) first, on the Bond or Performance Letter of Credit, as the case may be, until the amount available to be drawn thereunder shall have been reduced to the Warranty Period Amount, (ii) second, on the Retainage Letter of Credit until the amount available to be drawn thereunder shall have been reduced to zero and (iii) third, on the Bond or Performance Letter of Credit, as the case may be, until the amount available to be drawn thereunder shall have been reduced to zero. In the event of such termination of Contractor's right to proceed with the Work by Kenron, Kenron may take possession of the Work at the Premises and any of all materials and plant equipment and all records, plans, and specifications (whether delivered to the Premises or otherwise) and tools and construction equipment at the Premises and finish the Work by whatever method Kenron may deem expedient. Kenron may complete the Plant, and until Final Acceptance, any cost or expense that Kenron expends in excess of the Contract Price to achieve Final Acceptance shall be at the sole cost and expense of Contractor, subject to Contractor's limitation of liability set forth in Article 17.

15.2.2 In the event of termination by Kenron under Section 15.2.1, Contractor shall promptly advise Kenron of all outstanding subcontracts, rental agreements and purchase orders which Contractor has with others pertaining to performance of the Work and furnish Kenron with complete copies thereof. Upon request by Kenron, Contractor shall assign to Kenron, in form reasonably satisfactory to Kenron, Contractor's title to materials and plant equipment for the Work and those subcontracts, rental agreements and purchase orders designated by Kenron which Contractor has with others pertaining to the Work. Kenron shall also receive, at its option, any and all obligations which the Contractor has assumed.

15.2.3 In the event of termination under Section 15.2.1 by Kenron, Contractor shall not be entitled to receive any further payment until the Work is completed. If the cost for the completed Work shall exceed the Contract Price, the amount of such excess shall be paid to Kenron by Contractor, subject to the limitations of Sections 15.2.1 and Article 17. In addition, Kenron shall have the right and is authorized to set off against any amounts payable to Contractor and any other damages suffered by Kenron due to said default or event giving rise to the termination or due to other defaults of Contractor to comply with the terms of this Contract up to the total Contract Price. A waiver by Kenron of one default of Contractor shall not be considered to be a waiver of any subsequent default of Contractor, nor be deemed to amend or modify the terms of this

Contract. Except as hereinabove expressly provided, Contractor expressly waives any formal notice by Kenron of Contractor's failure to perform, or passive breach of, Contractor's express obligations under this Contract.

15.3 Events of Default by Kenron; Remedies. In the event Kenron fails to make any payment within thirty (30) after the date it becomes due under this Contract and such payment is not disputed in good faith by Kenron, Contractor may give notice to Kenron of its intention to terminate this Contract and may recover from Kenron such payment as would be required if such termination was a termination for convenience under Section 16.1, as well as interest.

15.3.1 Notice to Lender. No termination by Contractor under this Section 15.3 shall be effective unless Contractor shall have given Lender at least fifteen (15) days' prior notice, and an opportunity to cure the condition of default.

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ARTICLE 16

TERMINATION FOR KENRON'S CONVENIENCE

16.1 Notice. Kenron may, at any time and for its convenience, terminate this Contract by giving Contractor thirty (30) days' prior notice.

16.2 Compensation. Upon termination pursuant to this Article 16, Kenron shall pay, or cause to be paid, to Contractor the sum of (i) that amount of the Contract Price due and payable to Contractor up to the date of termination and (ii) all reasonable documented costs incurred by Contractor for its own efforts to implement termination and the resulting turnover and demobilization, excluding loss of anticipated profit and shop space, less (iii) any amounts owed by Contractor to Kenron. Such payments to Contractor shall not duplicate any other payments of the Contract Price made to Contractor and shall be for progress payments to Subcontractors or Vendors, based on (a) the percentage of their work, including without limitation labor and product but excluding anticipated profit or restocking charges, completed to the date of termination, (b) the portion of the Contract Price attributable to such Subcontractors or Vendors, and (c) the payment schedule of such Subcontractors or Vendors. Contractor shall use its best efforts to minimize all termination costs. Other than as set forth in this Section 16.2, Kenron shall have no liability to Contractor for costs, expenses or losses of any kind or nature incurred by Contractor as a result of such termination.

ARTICLE 17LIMITATION OF LIABILITY

17.1 Contractor's Liability. Contractor's liability for all obligations arising under this Contract shall in no case exceed the Contract Price.

17.2 Liquidated Damages and Penalties. The liquidated damages provisions of this Contract are expressly included in the limitation delineated in paragraph 17.1, above. Liquidated damages are further limited to the following extent: the liquidated damages and penalties specified in Article 3 of this Contract in total shall not exceed thirty percent (30.0%) of the total Contract Price.

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18.1 Definition. (a) "Force Majeure" shall mean any act, event or condition described below which (a) has a material adverse effect on the ability of Kenron, Contractor or USX (an "Affected Party") to perform its obligations under this Contract (in the case of Kenron and Contractor) or the Tolling Agreement (in the case of Kenron and USX), (b) which was not the result of the willful misconduct or negligence of the Affected Party, (c) was beyond the reasonable control of the Affected Party and (d) was not avoidable by the Affected Party with the exercise of reasonable due diligence, including:

(i) acts of God, war, public disorders, insurrection, rebellion, floods, hurricanes, earthquakes, lightning or other severely inclement weather or other natural calamities;

(ii) acts or inaction of any Governmental Authority or changes in Governmental Rules after the date of this Agreement;

(iii) explosions or fires;

(iv) strikes, work stoppages or other labor disputes (other than strikes, work stoppages or other labor disputes by employees or Subcontractors of the Affected Party or, with respect to USX, rail strikes or coal strikes);

(v) embargoes, delays in transportation or shortage of railroad cars caused by acts of God or the public

enemy; sabotage; restraint or interruption of any utility service;

(vi) other events which the Affected Party reasonably can demonstrate to the other Party were beyond the Affected Party's reasonable control.

(b) Neither Party will be liable or in breach of this Contract for failure to perform any obligation or for delay in performance resulting from or contributed to by any Force Majeure, and such failure shall not constitute an Event of Default hereunder.

(c) Kenron (if Kenron or USX is the Affected Party) or Contractor (if Contractor is the Affected Party) shall, within 15 days after having knowledge of an event of Force Majeure, give written notice to the other Party of the circumstances constituting the Force Majeure and of the obligation or performance which is, or which is expected to be, thereby delayed or impeded (a "Force Majeure Notice"), provided that, if USX is the Affected party, Kenron shall give Contractor the related Force Majeure Notice not later than 5 days after Kenron received notice of such Force Majeure from USX. Any Force Majeure Notice shall specify the length of delay expected to be occasioned by such event. Kenron (if Kenron or USX is the Affected Party) or Contractor (if Contractor is the Affected Party) shall provide the other Party with periodic supplemental notices during the period the Force Majeure continues. Such supplemental notices shall keep the other Party informed of any change, development, progress or other relevant information concerning the Force Majeure event. The Party claiming Force Majeure shall use reasonable efforts to avoid and minimize the effects of such Force Majeure.

18.2 Adjustment of dates. When called for specifically in the text of this Contract, this subsection shall comprise the contractual authority to adjust the Scheduled Tracking Milestone Dates, Scheduled Mechanical Completion Date, Scheduled Tolling Completion Date, Scheduled Final Acceptance Date and any bonus and liquidated damages dates by the actual number of days of delay occasioned by any Force Majeure that affected the project schedule (unless the actual number of days is agreed to by USX).

ARTICLE 19

DISPUTE RESOLUTION

19.1 Dispute Resolution. If a dispute arises between Contractor and Kenron regarding the application or interpretation of any provision of this Contract, the aggrieved Party shall promptly notify the other Party of the dispute within ten (10) days after such dispute arises. If the Parties shall

have failed to resolve the dispute within thirty (30) days after delivery of such notice, each Party shall, within ten (10) days thereafter, nominate a senior officer of its management who has the authority to resolve such disputes, to meet at the Facility, or at any other mutually agreed location, to resolve the dispute. This provision shall not limit any other rights at law or in equity of the Parties.

ARTICLE 20

MISCELLANEOUS PROVISIONS

20.1 Entire Agreement. The Contract Documents constitute the entire agreement of the Parties hereto with respect to the subject matter hereof. All prior negotiations, representations, understandings and agreements are hereby superseded and deemed merged herein.

20.2 Contract Documents. The Contract Documents form the agreement of the Parties, and are all as fully a part of the Contract as if attached hereto or repeated herein. Contractor agrees and acknowledges that it has read and is fully familiar with all the Contract Documents and each and every part thereof. Contractor further and specifically agrees and acknowledges that the inclusion of those particular provisions of the Contract Documents that are expressly and specifically incorporated by reference herein in no way relieves Contractor from any duties, responsibilities or obligations that are imposed upon Contractor by the remaining provisions of the Contract Documents.

20.3 Complementary. The Contract Documents are intended to include all items reasonably necessary for the proper execution and completion of the Work. The Contract Documents are complementary; what is required by any Contract Document shall be as binding as if required by all. Words that have well-known technical or trade meanings are used herein in accordance with such recognized meanings. In the event of any conflict or inconsistency between the provisions of the Contract and the provisions of any of the other Contract Documents, the provisions of the former shall prevail. Wherever possible the provisions shall be construed as complementary rather than as conflicting.

20.4 Examination of Contract Documents. Contractor represents that, prior to signing the Contract, it carefully examined the Contract Documents and compared all parts thereof and that it found no error, inconsistency or omission therein. Contractor agrees that it shall at once notify Kenron and Lender of any error, inconsistency or omission that it may hereafter discover in the Contract Documents.

20.5 Order of Interpretation. In the event of any inconsistencies between the terms and conditions of the Contract Documents, the following order of interpretation shall prevail:

20.5.1 Modifications.

20.5.2 The body of this Contract.

20.5.3 The Technical Construction Agreement.

20.5.4 Capitalized terms used herein have the meanings given them in Article I. The section and subsection headings and titles of articles used in this Contract are for convenience only and shall not affect the construction of any terms of this Contract. Words importing the masculine gender includes the feminine gender. Words importing persons include firms, associations and corporations. Words importing the singular number include the plural number and vice versa. References to statutes or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to; references to articles, sections (or subdivisions of sections) or schedules are to those of this contract unless otherwise indicated; references to agreements and other contractual instruments shall be deemed to include all exhibits and appendices thereto and all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by the terms of this Contract.

20.6 Table of Contents; Article and Section Headings. The Table of Contents and headings of the various Articles and Sections of this Contract are for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

20.7 Governing Law. This Contract shall be governed by, and construed in accordance with, the laws of the State of Indiana.

20.8 Rights and Remedies. Unless otherwise excluded, limited, modified or provided for herein, the duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be exclusive.

20.9 Waiver. The failure of either Party to require the performance of any terms or obligations of the Contract, or the waiver by either Party of any breach of the Contract, shall not prevent a subsequent enforcement of such terms or obligations or any other term or obligation or be deemed a waiver of any other breach.

20.10 Validity of Provisions. Except as may otherwise be provided herein, any provision of this Contract that shall be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or

render unenforceable such provision in any other jurisdiction, but to the extent that a provision is held to be unenforceable the Parties and/or the court shall attempt to construe the remaining provisions so as to effect the Parties' original intent. To the extent permitted by applicable law, the Parties hereby waive any provision of law that renders any provision hereof prohibited or unenforceable in any respect.

20.11 Survival. The provisions of and the obligations of Contractor under Sections 2.3, 5.1.3, 7.4, 7.5, 7.11, 7.17, 7.19, 15.3.1., 17.1, and 20.13 shall survive the expiration or other termination of the Contract and any waiver of compliance with said Articles and Sections or any other term, provision or condition of this Contract.

20.12 Parties in Interest: Limitation on Rights of Others. The terms of this Contract shall be binding upon, and inure to the benefit of, the Parties and their respective successors and assigns. Nothing in this Contract, whether express or implied, shall be construed to give any person (other than the Lender and the Parties and their respective successors and assigns) any legal or equitable right, remedy or claim under or in respect of this Contract or any covenants, conditions or provisions contained herein.

20.13 Nonrecourse. Notwithstanding anything to the contrary contained in this Contract, the Contract Documents or in any other instrument executed by Contractor or Kenron pursuant to or in connection with this Contract or the Contract Documents, no past, present, or future incorporator, shareholder, partner, affiliate, officer, director employee, servant, agent or authorized representative (each, an "operative") of Kenron or Contractor (subject to the proviso set forth below in this Section 20.13) shall have any liability or be personally liable for the payment of any sums now or hereafter owing, directly, indirectly or contingently, hereunder or for the performance of any of the obligations or breach of any representation or warranty of Contractor or Kenron contained herein or shall otherwise be liable or responsible with respect to any thereof. The sole recourse of the Parties for satisfaction of the obligations of Kenron or Contractor hereunder shall be against Kenron or Contractor, as the case may be, and its assets, it being expressly understood that such obligations of Kenron or Contractor are solely corporate obligations of Kenron or Contractor, as the case may be, and that no personal liability shall attach to, or be incurred by, any operative of Kenron or Contractor; provided, however, that this Section 20.13 shall not limit the obligations of ICF in its capacity as a party and a signatory to the ICF Construction Contract Guaranty.

20.14 Assignment. (a) This Contract shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assignees referred to in Section 20.14(b).

(b) Neither Party shall assign or otherwise convey any of its right, title or interest in, to, or under this Contract without the prior written consent of the other Party; provided, however, that, without any such consent,

i. Kenron (and its successors and permitted assignees) may assign all of its right, title and interest hereunder to any of the following assignees:

a. any Person, corporation, bank, trust company, association or other business entity as security in connection with obtaining or arranging financing or refinancing for the Facility;

b. any Person, corporation, bank, trust company or other business entity upon enforcement of any security assignment described in the immediately preceding clause (a) above;

c. any successor entity (whether by merger, by consolidation or by sale of substantially all the assets of such party) including, without limitation, the Partnership; and

d. any Lender.

(c) Upon the request of Kenron, Contractor shall execute and deliver a consent with respect to any permitted assignment described in Section 20.14(b) hereof in form and substance reasonably acceptable to Kenron or to any Lender.

(d) No assignment shall relieve the assigning Party from any of its obligations under this Contract.

20.15 Notices. All notices, demands and other communications hereunder shall be made in writing, and shall be deemed given or made: (i) as of the date of personal delivery; (ii) when delivered to the United States Postal Service, on the third day following the deposit with the United States postal Service, certified mail, return receipt requested, postage prepaid; (iii) when delivered by a nationally or internationally recognized delivery service promising delivery within a period of twenty-four (24) hours, receipt obtained, charges prepaid, on the day following the deposit with such delivery service; or (iv) telex or telecopy addressed as follows or to such other address as a Party or Kenron may from time to time designate in writing to the other Party or Kenron:

Owner: Kenron Corporation
 c/o White & Case
 1155 Avenue of the Americas
 New York, New York 10036
 Attention: Lawrence J. Gannon, Esq.
 Telecopy No.: (212) 354-8113

Contractor: ICF Kaiser Engineers, Inc.
 Four Gateway Center,
 Twelfth Floor
 Pittsburgh, PA 15222
 ATTN: Gray Rind
 Telecopy No.: (412) 281-8145

Lender: General Electric Capital Corporation
 1600 Summer Street
 Stamford, CT 06927-4000
 ATTN: Manager of Operations -
 Industrial Project Financing
 Telecopy No.: (203) 357-4890

Any notice of a change in address shall be effective only upon receipt. No other form of actual notice is precluded. Every notice given to Kenron hereunder must also be given to Lender at the same time.

20.16 Cooperation of the Parties. The Parties shall cooperate closely and in good faith with each other, to the end that the Plant contemplated in this Contract shall be properly performed in a timely, economic and correct manner.

20.17 Books and Records. Kenron shall have the right to examine and copy, at the Premises or at Contractor's place of business, and during Business Hours, all books, records, accounts, correspondence, instructions, specifications, plans, drawings, receipts and memoranda of Contractor and/or Subcontractors insofar as such are pertinent to the Work. Contractor shall be responsible for ensuring that all of Contractor and Subcontractors' documentations specified above are preserved and made available for any such examination and copying without any additional compensation therefor, for a period of one year after conclusion of the work by Contractor and final payment has been made by Kenron. Notwithstanding the above, Kenron shall have no right to audit Contractor's costs of performing the lump sum portions of this Contract or the derivation of Contractor's nationally published rates, or the derivation of other fixed mark-up rates contained in this Contract.

20.18 Contractor's Instructions. No less than thirty (30) calendar days prior to the commencement of start-up, Contractor shall prepare in bound books and deliver to Kenron four (4) sets of complete equipment and system instructions for the start-up, preliminary testing, operation and maintenance of the Plant (the "Operations and Maintenance Manual"). Subsequent to such delivery, Contractor shall update and revise the Operations and Maintenance Manual, when and as necessary, until the date of Final Acceptance. Contractor shall obtain all instruction manuals and special directions required for this purpose from equipment manufacturers or shall itself provide any such written instructions which are not available from the manufacturers. The Operations and Maintenance Manual shall be

based on sound engineering and operations practice. Contractor agrees that adherence to the Operations and Maintenance Manual shall allow operation of the Plant at the levels of capacity, efficiency and maintainability contemplated by the Contract Documents and will in no way impair any warranty or guarantee on equipment, materials or services to be assigned by it to Kenron. Contractor shall perform all tests and Performance Tests in accordance with Operations and Maintenance Manual.

20.19 Overdue Obligations To Bear Interest. All amounts due hereunder, whether as damages, credits, revenue or reimbursements, that are not paid when due shall bear interest at a rate equal to Manufacturer's Hanover Bank of New York Base Rate plus three percent (3.0%) on the amount outstanding from time to time, on the basis of a 365-day year, counting the actual number of days elapsed, and all such interest accrued at any time shall, to the extent permitted by law, be deemed added to the amount due, as accrued.

20.20 Counterparts. This Contract may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

20.21 Incidental and Consequential Damages. Notwithstanding any other provision of this Contract to the contrary, neither Contractor nor Kenron shall be liable to the other for indirect, incidental, consequential, or special damages or costs arising out of any default under this Contract, except insofar as the provisions of this Contract expressly provide for the reimbursement of damages or costs in certain events.

20.22 Certain Financing Documents. Contractor has read the Participation Agreement among Partnership, PCI, Kenron, General Electric Credit and Leasing Corporation, a Delaware corporation, and GE Capital, dated as of the date hereof, the Construction Loan Agreement (as such term is defined in the Participation Agreement) and the Senior Term Loan Agreement (as so defined) and hereby acknowledges the terms and conditions thereof.

IN WITNESS WHEREOF, the Parties have executed this Contract on the day and year first above written.

OWNER:
KENRON CORPORATION,
a Delaware corporation

By: _____
Name:
Title:

CONTRACTOR:
ICE KAISER ENGINEERS, INC.,
an Ohio corporation

Document is NOT OFFICIAL!

This Document is the property of
the Lake County Recorder!
by: *John H. Sloane*
Title: Vice-President

STOP



IN WITNESS WHEREOF, the Parties have executed this Contract on the day and year first above written.

OWNER:
KENRON CORPORATION,
a Delaware corporation

By: Kenneth A. Schwens
Name: Kenneth A. Schwens
Title: President, ICF Resources Incorporated,
attorney-in-fact

Document is
NOT OFFICIAL
CONTRACTOR:
ICF KAISER ENGINEERS, INC.,
an Ohio corporation

This Document is the property of
the Lake County Recorder!

By: _____
Name: _____
Title: _____

STOP



ACKNOWLEDGEMENT

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

SS:

Before me, a Notary Public in and for said County and State, personally appeared Kenneth A. Schweers, the President of ICF Resources Incorporated, a Delaware corporation, and attorney in fact for Kenron Corporation, a Delaware corporation, who acknowledged the execution of the foregoing instrument for and on behalf of said corporation and stated that the representations set forth therein are true and correct.

WITNESS my hand and Notarial Seal this 8th day of May, 1991.

Document is
NOT OFFICIAL!

This Document is the property of Katharine J. Haje
the Lake County Notary Public residing in

New York County

Katherine J. Haje
(printed name)

STOP

My commission expires:

10/30/91



KATHERINE J. HAJE
No. 4958160
Qualified in New York County
Certificate Filed in New York
Commission Expires 10/30/91

This instrument prepared by:

Andrew Schultz, Esq.
Milbank, Tweed, Hadley & McCloy
1 Chase Manhattan Plaza
New York, New York 10005

ACKNOWLEDGEMENT

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

SS:

Before me, a Notary Public in and for said County and State, personally appeared John H. Sloane, the Vice-President of ICF Kaiser Engineers, Inc., an Ohio corporation, who acknowledged the execution of the foregoing instrument for and on behalf of said corporation and stated that the representations set forth therein are true and correct.

WITNESS my hand and Notarial Seal this 8th day of May, 1991.

Document is
NOT OFFICIAL!

This Document is the property of
the Lake County Recorder.

Katherine J. Haje
Notary Public residing in
NEW YORK County

KATHERINE J. HAJE
(printed name)

KATHERINE J. HAJE
No. 4958160
Qualified in New York County
Certificate Filed in New York
Commission Expires 10/30/91

My commission expires:

10/30/91

This instrument prepared by:

Andrew Schultz, Esq.
Milbank, Tweed, Hadley & McCloy
1 Chase Manhattan Plaza
New York, New York 10005



STOP



SCHEDULE 1

DESCRIPTION OF PREMISES

PARCEL 1: A PARCEL OF LAND PARTLY IN THE EAST HALF (E 1/2) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE EIGHT (8) WEST OF THE SECOND PRINCIPAL MERIDIAN, AND PARTLY IN THE WEST (W 1/2) OF SECTION THIRTY-FIVE (35), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE EIGHT (8) WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF GARY, LAKE COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION THIRTY-FOUR (34); THENCE NORTH EIGHTY-NINE DEGREES, FIFTY-FIVE MINUTES, SEVEN SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION THIRTY-FOUR (34) (BASIS OF BEARINGS), SIX HUNDRED FOUR AND SIXTY-FIVE HUNDREDTHS FEET (604.65'); THENCE NORTH ZERO DEGREES, ZERO MINUTES, ZERO SECONDS EAST, TWO THOUSAND THREE HUNDRED EIGHTY-FIVE AND NINETY-EIGHT HUNDREDTHS FEET (2,385.98') TO THE POINT OF BEGINNING; THENCE NORTH ZERO DEGREES, TWO MINUTES SIXTEEN AND THREE TENTHS SECONDS WEST, ONE THOUSAND THREE HUNDRED SEVENTY AND FOUR HUNDREDTHS FEET (1,370.04'); THENCE NORTH NINETY DEGREES, ZERO MINUTES, ZERO SECONDS EAST, SEVEN HUNDRED AND ZERO HUNDREDTHS FEET (700.00'); THENCE SOUTH ZERO DEGREES, ZERO MINUTES, ZERO SECONDS EAST, EIGHT HUNDRED FIFTY-FOUR AND SIXTY-ONE HUNDREDTHS FEET (854.61'); THENCE SOUTH FORTY-SIX DEGREES, FIFTY-FIVE MINUTES, THIRTY SECONDS WEST, TWO HUNDRED AND ZERO HUNDREDTHS FEET (200.00'); THENCE SOUTH FIFTY DEGREES, TEN MINUTES, THIRTY SECONDS WEST, ONE HUNDRED EIGHTY-SEVEN AND SEVENTY-THREE HUNDREDTHS FEET (187.73'); THENCE SOUTH FIFTY-FIVE DEGREES, ZERO MINUTES, ZERO SECONDS WEST, EIGHTY-THREE AND EIGHTY-SEVEN HUNDREDTHS FEET (83.87'); THENCE SOUTH FIFTY-EIGHT DEGREES, FOURTEEN MINUTES, FORTY-SEVEN AND FIVE TENTHS SECONDS WEST, FOUR HUNDRED AND ZERO HUNDREDTHS FEET (400.00') TO THE POINT OF BEGINNING.

PARCEL 2: A PARCEL OF LAND IN THE SOUTHEAST QUARTER (SE 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE EIGHT (8) WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF GARY, LAKE COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION THIRTY-FOUR (34); THENCE NORTH EIGHTY-NINE DEGREES, FIFTY-FIVE MINUTES, SEVEN SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION THIRTY-FOUR (34) (BASIS OF BEARINGS), ONE THOUSAND THREE HUNDRED FOURTEEN AND SEVENTY-EIGHT HUNDREDTHS FEET (1,314.78'); THENCE NORTH ZERO DEGREES, ZERO MINUTES, ZERO SECONDS EAST, ONE THOUSAND EIGHT HUNDRED NINETEEN AND TWENTY HUNDREDTHS FEET (1,819.20') TO THE POINT OF BEGINNING; THENCE NORTH FORTY-NINE DEGREES, THIRTY-NINE MINUTES, THIRTY-TWO AND FIVE TENTHS SECONDS WEST, TWO HUNDRED TWENTY-EIGHT AND FIFTY-TWO HUNDREDTHS FEET (228.52'); THENCE SOUTH NINETY DEGREES, ZERO MINUTES, ZERO SECONDS WEST, THREE HUNDRED ONE AND FIFTY-SIX HUNDREDTHS FEET (301.56'); THENCE NORTH ZERO DEGREES, ZERO MINUTES, ZERO SECONDS EAST, TWO HUNDRED THIRTY-FIVE AND ZERO HUNDREDTHS FEET (235.00'); THENCE SOUTH NINETY DEGREES, ZERO MINUTES, ZERO SECONDS EAST, THREE HUNDRED TWO AND FOURTEEN HUNDREDTHS FEET (302.14'); THENCE SOUTH FIFTY-EIGHT DEGREES, ZERO MINUTES, ZERO SECONDS EAST, THREE HUNDRED SIXTY-EIGHT

SCHEDULE 1 CONTINUED

AND SEVEN HUNDREDTHS FEET (368.07'); THENCE SOUTH THIRTY-SIX DEGREES, TWENTY-FOUR MINUTES, SEVENTEEN AND FIVE TENTHS SECONDS WEST, TWO HUNDRED THIRTY-THREE AND FORTY-FOUR HUNDREDTHS FEET (233.44') TO THE POINT OF BEGINNING.

PARCEL 3: A PARCEL OF LAND IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION THIRTY-FOUR (34), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE EIGHT (8) WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF GARY, LAKE COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION THIRTY-FOUR (34); THENCE NORTH EIGHTY-NINE DEGREES, FIFTY-FIVE MINUTES, SEVEN SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION THIRTY-FOUR (34) (BASIS OF BEARINGS), TWO THOUSAND SEVEN HUNDRED FIFTY AND ZERO HUNDREDTHS FEET (2,750.00'); THENCE NORTH ZERO DEGREES, ZERO MINUTES, ZERO SECONDS EAST, THREE THOUSAND FIVE HUNDRED FORTY-ONE AND EIGHTY-NINE HUNDREDTHS FEET (3,541.89') TO THE POINT OF BEGINNING; THENCE SOUTH EIGHTY-NINE DEGREES, FIFTY-SIX MINUTES, THIRTY-TWO SECONDS WEST, ONE HUNDRED FIFTY AND ZERO HUNDREDTHS FEET (150.00'); THENCE NORTH ZERO DEGREES, THREE MINUTES, TWENTY-EIGHT SECONDS WEST, TWO HUNDRED AND ZERO HUNDREDTHS FEET (200.00'); THENCE NORTH EIGHTY-NINE DEGREES, FIFTY-SIX MINUTES, THIRTY-TWO SECONDS EAST, ONE HUNDRED FIFTY AND ZERO HUNDREDTHS FEET (150.00'); THENCE SOUTH ZERO DEGREES, THREE MINUTES, TWENTY-EIGHT SECONDS EAST, TWO HUNDRED AND ZERO HUNDREDTHS FEET (200.00') TO THE POINT OF BEGINNING.



SCHEDULE 1

DESCRIPTION OF EASEMENT SITES

PARCEL 4: A PARCEL OF LAND IN A PART OF THE NORTHWEST QUARTER OF SECTION 2, A PART OF THE NORTH HALF OF SECTION 3, AND A PART OF THE NORTHEAST QUARTER OF SECTION 4, ALL IN TOWNSHIP 36 NORTH, RANGE 8 WEST; A PART OF FRACTIONAL SECTION 27, A PART OF THE SOUTH HALF OF SECTION 33, A

PART OF SECTIONS 34 AND 35, ALL IN TOWNSHIP 37 NORTH, RANGE 8 WEST; ALL IN LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 34; THENCE SOUTH 2 DEGREES 00 MINUTES 37 SECONDS EAST 157.99 FEET TO THE NORTHERN BOUNDARY OF LAND OWNED BY THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY (BY DEED RECORD 432, PAGE 553, DATED JUNE 30, 1928) (HEREINAFTER REFERRED TO AS THE E., J. & E. RAILWAY. CO.); THENCE SOUTH 81 DEGREES 29 MINUTES 32 SECONDS WEST 3,330.69 FEET ALONG SAID NORTHERN BOUNDARY TO THE EAST BOUNDARY OF VIRGINIA STREET (BY DEED OF DEDICATION DATED APRIL 6, 1943 AND RECORDED IN DEED RECORD 696, PAGES 489 TO 499); THENCE NORTH 1 DEGREE 48 MINUTES 23 SECONDS WEST 288.40 FEET ALONG THE EAST BOUNDARY OF SAID VIRGINIA STREET TO THE NORTH BOUNDARY OF SAID VIRGINIA STREET, WHICH POINT IS SOUTHERLY 125.00 FEET (MEASURED AT RIGHT ANGLES) FROM THE CENTERLINE OF THE GRAND CALUMET RIVER CHANNEL; THENCE SOUTH 89 DEGREES 40 MINUTES 32 SECONDS WEST 60.02 FEET ALONG SAID NORTH BOUNDARY (WHICH LINE IS PARALLEL WITH THE CENTERLINE OF SAID GRAND CALUMET RIVER CHANNEL) TO THE WEST BOUNDARY OF SAID VIRGINIA STREET; THENCE SOUTH 1 DEGREE 48 MINUTES 23 SECONDS EAST 196.34 FEET ALONG SAID WEST BOUNDARY TO A POINT WHICH IS NORTHWESTERLY 100.00 FEET (MEASURED AT RIGHT ANGLES) FROM A NORTHERN BOUNDARY OF SAID E., J. & E. RAILWAY. CO.; THENCE SOUTH 9 DEGREES 10 MINUTES 42 SECONDS WEST 104.96 FEET ALONG THE WESTERN BOUNDARY OF SAID VIRGINIA STREET TO A NORTHERN BOUNDARY OF SAID E., J. & E. RAILWAY. CO., WHICH POINT IS WESTERLY 80.00 FEET (MEASURED AT RIGHT ANGLES) FROM THE EAST BOUNDARY OF SAID VIRGINIA STREET; THENCE SOUTH 81 DEGREES 29 MINUTES 32 SECONDS WEST 127.80 FEET ALONG SAID NORTHERN BOUNDARY; THENCE ALONG SAID NORTHERN BOUNDARY SOUTHWESTERLY 733.68 FEET ALONG AN ARC TO THE RIGHT AND HAVING A RADIUS OF 6,309.19 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 84 DEGREES 49 MINUTES 25 SECONDS WEST AND A LENGTH OF 733.27 FEET TO A SOUTHEAST CORNER OF LAND OWNED BY NORTHERN INDIANA PUBLIC SERVICE COMPANY (BY DEED RECORD 1160, PAGE 361, DATED OCTOBER 24, 1960) (HEREINAFTER REFERRED TO AS NORTHERN INDIANA PUBLIC SERVICE COMPANY); THENCE NORTH 46 DEGREES 10 MINUTES 55 SECONDS WEST 195.53 FEET ALONG A NORTHEASTERN BOUNDARY OF SAID NORTHERN INDIANA PUBLIC SERVICE COMPANY; THENCE NORTH 86 DEGREES 25 MINUTES 17 SECONDS WEST 895.27 FEET ALONG A NORTHERN BOUNDARY OF SAID NORTHERN INDIANA PUBLIC SERVICE COMPANY; THENCE NORTH 81 DEGREES 43 MINUTES 24 SECONDS WEST 48.25 FEET ALONG SAID NORTHERN BOUNDARY TO THE EAST BOUNDARY OF BROADWAY (BY DEED OF DEDICATION DATED APRIL 6, 1943 AND RECORDED IN DEED RECORD 696, PAGES 489 TO 499); THENCE NORTH 1 DEGREE 47 MINUTES 30 SECONDS WEST 175.65 FEET ALONG SAID EAST BOUNDARY TO THE NORTH BOUNDARY OF SAID BROADWAY, WHICH POINT IS SOUTHERLY 125.00 FEET (MEASURED AT RIGHT ANGLES) FROM THE CENTERLINE OF SAID GRAND CALUMET RIVER CHANNEL; THENCE SOUTH 89 DEGREES 42 MINUTES 10 SECONDS WEST 99.89 FEET ALONG SAID NORTH

SCHEDULE 1 CONTINUED

BOUNDARY (WHICH LINE IS PARALLEL WITH THE CENTERLINE OF SAID GRAND CALUMET RIVER CHANNEL) TO THE EAST LINE OF SAID SECTION 4, WHICH POINT IS SOUTH 2 DEGREES 13 MINUTES 24 SECONDS EAST 367.97 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 4; THENCE CONTINUING SOUTH 89 DEGREES 42 MINUTES 10 SECONDS WEST 0.15 FEET ALONG SAID NORTH BOUNDARY TO THE WEST BOUNDARY OF SAID BROADWAY; THENCE SOUTH 1 DEGREE 47 MINUTES 30 SECONDS EAST 160.79 FEET ALONG SAID WEST BOUNDARY TO A NORTHEAST CORNER OF LAND OWNED BY SAID NORTHERN INDIANA PUBLIC SERVICE COMPANY; THENCE NORTH 81 DEGREES 43 MINUTES 24 SECONDS WEST 577.86 FEET ALONG A NORTHERN BOUNDARY OF SAID NORTHERN INDIANA PUBLIC SERVICE COMPANY; THENCE NORTH 1 DEGREE 38 MINUTES 02 SECONDS WEST 86.07 FEET ALONG AN EAST BOUNDARY OF SAID NORTHERN INDIANA PUBLIC SERVICE COMPANY; THENCE SOUTH 88 DEGREES 36 MINUTES 27 SECONDS WEST 357.50 FEET ALONG A NORTH BOUNDARY OF SAID NORTHERN INDIANA PUBLIC SERVICE COMPANY; THENCE NORTH 75 DEGREES 21 MINUTES 13 SECONDS WEST 544.04 FEET ALONG SAID BOUNDARY; THENCE NORTH 72 DEGREES 30 MINUTES 58 SECONDS WEST 697.98 FEET ALONG SAID BOUNDARY; THENCE NORTH 68 DEGREES 06 MINUTES 00 SECONDS WEST 648.89 FEET ALONG SAID BOUNDARY; THENCE NORTH 63 DEGREES 40 MINUTES 46 SECONDS WEST 926.15 FEET ALONG SAID BOUNDARY; THENCE SOUTH 47 DEGREES 51 MINUTES 15 SECONDS WEST 173.59 FEET ALONG SAID BOUNDARY TO A NORTHEASTERN BOUNDARY OF LAND OWNED BY SAID E. J. & E. RAILWAY. CO.; THENCE NORTH 65 DEGREES 51 MINUTES 19 SECONDS WEST 178.47 FEET ALONG SAID NORTHEASTERN BOUNDARY TO A POINT WHICH IS NORTH 1 DEGREE 37 MINUTES 51 SECONDS WEST 573.88 FEET FROM THE SOUTH LINE OF SAID SECTION 33; THENCE NORTH 1 DEGREE 37 MINUTES 51 SECONDS WEST 600.00 FEET ALONG AN EAST BOUNDARY OF SAID E. J. & E. RAILWAY. CO. (BY DEED RECORD 179, PAGE 350, DATED APRIL 16, 1910); THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 3,799.32 FEET TO THE WEST LINE OF SAID SECTION 34; THENCE NORTH 2 DEGREES 13 MINUTES 24 SECONDS WEST 5,150.87 FEET ALONG THE WEST LINE OF SAID SECTION 34 AND FRACTIONAL SECTION 27 TO THE DOCK OR BULKHEAD LINE AS APPROVED BY THE SECRETARY OF WAR, FEBRUARY 12, 1908 (AS SHOWN ON A PLAT OF SURVEY OF LAND LYING BETWEEN SAID DOCK OR BULKHEAD LINE AND THE SHORE LINE OF LAKE MICHIGAN, IN THE OFFICE OF THE SURVEYOR OF LAKE COUNTY, INDIANA); THENCE SOUTH 83 DEGREES 53 MINUTES 12 SECONDS EAST 3,502.20 FEET ALONG SAID 1908 DOCK OR BULKHEAD LINE; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 250.00 FEET ALONG SAID 1908 DOCK OR BULKHEAD LINE TO THE DOCK OR BULKHEAD LINE AS AUTHORIZED BY THE SECRETARY OF THE ARMY, MARCH 12, 1956 (AS SHOWN ON A PLAT OF SURVEY OF LAND LYING BETWEEN SAID DOCK OR BULKHEAD LINE AND THE SHORE LINE OF LAKE MICHIGAN, IN THE OFFICE OF THE SURVEYOR OF LAKE COUNTY, INDIANA); THENCE SOUTH 51 DEGREES 49 MINUTES 23 SECONDS EAST 50.15 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 89.39 FEET; THENCE SOUTH 78 DEGREES 30 MINUTES 12 SECONDS EAST 90.31 FEET; THENCE SOUTH 0 DEGREES 00 MINUTES 00 SECONDS EAST 41.00 FEET; THENCE SOUTH 84 DEGREES 54 MINUTES 02 SECONDS EAST 1,237.59 FEET; THENCE SOUTH 5 DEGREES 20 MINUTES 21 SECONDS WEST 537.33 FEET; THENCE SOUTH 13 DEGREES 48 MINUTES 15 SECONDS WEST 419.10 FEET; THENCE SOUTH 69 DEGREES 23 MINUTES 03 SECONDS EAST 448.74 FEET; THENCE SOUTH 85 DEGREES 54 MINUTES 52 SECONDS EAST 57.38 FEET TO THE EAST LINE OF SAID SECTION 34; THENCE SOUTH 2 DEGREES 00 MINUTES 37 SECONDS EAST 4,654.47 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING. LESS AND EXCEPT PARCELS 1, 2 AND 3.

SCHEDULE 1 CONTINUED

PARCEL 5: A PARCEL OF LAND IN PART OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 36 NORTH, RANGE WEST IN LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTHERLY 285.92 FEET ALONG THE EAST LINE OF SAID QUARTER SECTION TO THE SOUTHEASTERN BOUNDARY OF THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY (BY DEED RECORD 432, PAGE 553, DATED JUNE 20, 1928); THENCE SOUTH 82 DEGREES 42 MINUTES WEST 622.54 FEET ALONG SAID SOUTHEASTERN BOUNDARY TO THE NORTHEAST CORNER OF LAND CONVEYED BY UNITED STATES STEEL CORPORATION (NOW A DIVISION OF USX CORPORATION) TO NORTHERN INDIANA PUBLIC SERVICE COMPANY (BY DOCUMENT NUMBER 794896, DATED MARCH 6, 1985); THENCE SOUTH 0 DEGREES 51 MINUTES WEST 284.33 FEET ALONG THE EAST BOUNDARY OF LAND CONVEYED IN THE ABOVE-DESCRIBED DOCUMENT NUMBER 794896 TO A NORTHERN BOUNDARY OF MASON AVENUE; THENCE NORTH 78 DEGREES 02 MINUTES WEST 248.78 FEET ALONG SAID NORTHERN BOUNDARY; THENCE NORTH 89 DEGREES 02 MINUTES WEST 255.89 FEET ALONG SAID NORTHERN BOUNDARY TO THE POINT OF BEGINNING OF THIS DESCRIPTION, WHICH POINT IS THE SOUTHWEST CORNER OF LAND CONVEYED IN THE ABOVE-DESCRIBED DOCUMENT NUMBER 794896; THENCE NORTH 89 DEGREES 02 MINUTES WEST 1,130.78 FEET ALONG SAID NORTHERN BOUNDARY TO THE SOUTHEASTERN BOUNDARY OF SAID ELGIN, JOLIET AND EASTERN RAILWAY COMPANY; THENCE NORTH 82 DEGREES 42 MINUTES EAST 1,142.30 FEET ALONG SAID SOUTHEASTERN BOUNDARY TO THE NORTHWEST CORNER OF LAND CONVEYED IN THE ABOVE-DESCRIBED DOCUMENT NUMBER 794896; THENCE SOUTH 0 DEGREES 51 MINUTES WEST 164.24 FEET TO THE POINT OF BEGINNING.

