

1 Transfer ("EFT") in accordance with the "The Department of the Interior Natural Resource
2 Damage Assessment and Restoration Fund Assessment and Settlement Deposit Remittance
3 Procedures" attached as Appendix I, on behalf of the state and federal Natural Resource
4 Trustees for the purposes set forth below. An additional payment of \$2 million, together with
5 accrued interest, for Natural Resource Trustee past costs shall be paid to the Natural Resource
6 Trustees, or into the Registry of the Court, in accordance with instructions to be submitted by
7 the Natural Resource Trustees. If paid into the Registry of the Court, the monies shall
8 disbursed from the Court Registry in accordance with instructions from the Natural Resource
9 Trustees. Transmittal letters indicating that the EFT and escrow disbursements have occurred
10 shall be sent to the Parties in accordance with Section XXVI (Notices and Submissions) and to:

11 Triscilla P. Taylor, Esq.
12 Attorney Advisor
13 Office of the Solicitor
14 U.S. Department of the Interior
15 Washington, D.C. 20240

14 and
15 Bruce Nesslage
16 DOI Restoration Fund Manager
17 1849 "C" Street, N.W.
18 Mail Stop 4449
19 Washington, D.C. 20240

17 The EFT and transmittal letter shall reflect that the payment is being made to the "Natural
18 Resources Damage Assessment and Restoration Fund, Account No. 14X5198. The
19 Department of the Interior will assign these funds a special project number to allow the funds
20 to be maintained as a segregated account within the Department of the Interior Natural
21 Resource Damage Assessment and Restoration Fund (the "Iron Mountain Mine NRD
22 Account").

23 (b) The Department of the Interior shall, in accordance with
24 law, manage and invest funds in the Iron Mountain Mine NRD Account and any return on
25 investments or interest accrued on the Account for use by the Natural Resource Trustees in
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1 connection with restoration of natural resources impacted by releases of hazardous substances
2 at or from the Site. The Department of the Interior shall not make any charge against the Iron
3 Mountain Mine NRD Account for any investment or management services provided.

4 (c) The Department of the Interior shall hold all funds in the
5 Iron Mountain Mine NRD Account, including return on investments or accrued interest,
6 subject to the provisions of this Decree and any memorandum of understanding entered into by
7 the Natural Resource Trustees.

8 (2) The remainder of the funds contained in the escrow account,
9 together with accrued interest shall be paid into in the Iron Mountain Mine Superfund Site
10 Special Account, by Electronic Funds Transfer ("EFT") in accordance with instructions to be
11 provided to the Settling Parties by EPA following lodging of this Decree.

12 (3) Credits against the monies to be paid pursuant to this Paragraph
13 6.A may be deducted, prior to payment into escrow, for the following:

14 (a) \$685,000 for upgrades to the Minnesota Flats Treatment
15 Plant, and

16 (b) \$90,000 for costs incurred for installing cathodic
17 protection on the thickener (provided that the Settling Parties have actually paid that amount).

18 B. Not later than 30 days after the Effective Date of this Consent Decree,
19 the Settling Parties shall pay to Trust II, the qualified settlement fund established pursuant to
20 Internal Revenue Code § 468B, the amount necessary to fully fund the Iron Mountain Mine
21 Manuscript Clean-Up Cost Cap - Pollution Legal Liability Select Insurance Policy issued by
22 American International Specialty Lines Insurance Company ("AISLIC") and attached hereto as
23 Appendix J ("Policy"). The amount necessary to fully fund the Policy is the Policy Premium,
24 plus the Terminal Payment Deposit, plus the Site Operator Deposit of \$2,711,000 million, all
25 as specified pursuant to the Policy and Endorsements 3 and 4 of the Policy. The estimated
26 amount necessary to fully fund the Policy, based on designated interest rates in effect as

1 specified in Endorsements 3 and 4 of the Policy, is \$141,901,277. The actual amount
2 necessary to fully fund the Policy may be higher or lower than this estimated amount, since the
3 Policy Premium and Terminal Payment Deposit will be calculated from designated interest
4 rates, as described in Endorsements 3 and 4 of the Policy. The Settling Parties shall notify the
5 Trustee of the actual amount required to fully fund the Policy at the time of payment of that
6 amount into Trust II. The Settling Parties have the option to pay the Policy Premium into
7 escrow with AISLIC before or within 30 days after the Effective Date of the Consent Decree
8 in order to lock in prevailing rates and, in that event, AISLIC as escrow agent shall transfer
9 the Policy Premium into Trust II on the same day and at the same time that the Settling Parties
10 pay the Terminal Payment Deposit into Trust II, but in no event shall such payment or transfer
11 be made more than 30 days after the Effective Date of the Consent Decree

12 (1) The requirements of this subparagraph apply immediately upon
13 payment to Trust II by the Settling Parties (or AISLIC) of the amount required to fully fund
14 the Policy.

15 (a) ITX shall ensure that Trust II pays the amounts specified
16 for the Policy coverages in this Subparagraph, as required by the Iron Mountain Mine
17 Remediation Trust Agreement II, attached hereto as Appendix K.

18 (b) Trust II shall immediately use such funds to cause to be
19 paid to AISLIC the Policy Premium and the Terminal Payment Deposit and shall also pay
20 \$2,711,000 to the Site Operator (representing the Site Operator Deposit to be used to fund a
21 portion of the Site Operator's co-insurance participation and other obligations under the Policy
22 and SOW). However, if the Policy is canceled as to the Site Operator under Section VI,
23 Paragraph G.4 of the Policy, Trust II shall pay the Site Operator Deposit to AISLIC as
24 premium.

25 (2) The Policy will provide the necessary funding to defray the cost
26 of activities conducted by the Site Operator under the oversight of the Oversight Agency and
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1 Support Agency pursuant to this Consent Decree and the SOW and other Site costs. The
2 Policy shall, among other things, guarantee to EPA and the State plaintiffs that the funds
3 required to complete the Work to be undertaken pursuant to this Consent Decree and the SOW
4 by the Site Operator are secured up to the limits provided in the Policy, totaling \$301,706,450
5 (THREE HUNDRED AND ONE MILLION, SEVEN HUNDRED AND SIX THOUSAND,
6 FOUR HUNDRED AND FIFTY DOLLARS), for a term of at least 30 years, subject to the
7 terms and conditions of the Policy. In addition, the Policy shall provide for payment of a
8 Terminal Payment (as defined and provided for therein) at the end of the Policy period.
9 AISLIC shall be responsible to pay all of the costs and expenses of the Site Operator under the
10 Consent Decree and the SOW, and in the event of a work takeover by the government, the
11 government costs associated with the work takeover, up to the Policy limits and subject to the
12 terms and conditions of the Policy.

13 (3) The Settling Parties shall have no rights in the Policy or control
14 over the Policy after its issue, except for the right to a refund under the formula specified
15 within the Policy should the Decree be vacated after entry as set forth in Paragraph 110.

16 (4) The terms of the Policy shall control to the extent of any
17 inconsistency between such terms and the description of such terms provided in Paragraph
18 6.B.(2).

19 C. In the event that the payments by the Settling Parties required by
20 Paragraphs 6.A and 6.B are not made within 30 days of the Effective Date, the Settling Parties
21 shall pay Interest on the unpaid balance. The Interest to be paid on the amounts due under
22 Paragraphs 6.A and 6.B shall begin to accrue 30 days after the Effective Date. The Interest
23 shall accrue through the date of the Settling Parties' payment. Payments of Interest made
24 under this Paragraph shall be in addition to such other remedies or sanctions available to
25 Plaintiffs by virtue of Settling Parties' failure to make timely payments under this Section.
26 The Settling Parties shall make all payments required by this Paragraph in the manner

1 described in Paragraphs 6.A and 6.B.

2 D. The Settling Parties shall send copies of all correspondence and other
3 evidence of any transmittal of funds under this Paragraph to the Plaintiffs as specified in
4 Section XXVI (Notices and Submissions).

5 E. Upon the Date of Final Approval of this Consent Decree, Atkemix
6 Thirty-Seven Inc. ("Atkemix Thirty-Seven") hereby grants to the United States, through the
7 United States Bureau of Land Management ("BLM"), an option (the "Option") to acquire
8 Atkemix Thirty-Seven's interest in certain parcels of land located in the area of Iron Mountain
9 under the authority and provisions of Section 107(f)(1) of CERCLA, 42 U.S.C.
10 Section 9607(f)(1), and Section 205 of the Federal Land Policy and Management Act,
11 43 U.S.C. Section 1715, and 43 C.F.R. Part 11. The parcels subject to the Option (the
12 "Land") encompass approximately 1,250 acres of land. The Land is generally depicted as the
13 shaded areas on the map attached to this Consent Decree as Appendix L; however, the parcel
14 boundaries and other notations appearing on Appendix L are not meant to constitute
15 controlling legal descriptions. The terms of the Option, and of the United States' exercise
16 thereof, are as follows:

17 (1) Transfer from Atkemix Thirty-Seven to the United States of
18 Atkemix Thirty-Seven's interest the Land, in its entirety or any parcel therein, shall be in
19 consideration of agreements contained in this Consent Decree and shall not require any further
20 consideration. Restoration efforts undertaken on any Land the United States acquires under
21 this Paragraph will be developed by the Natural Resource Trustees in accordance with Section
22 XXXIII of this Consent Decree and funded from allocations made pursuant to Paragraphs
23 6.A.(1)(a) and 7.D of this Consent Decree.

24 (2) The term of the Option (the "Option Term") shall be a period of
25 24 months from the Date of Final Approval of this Consent Decree. The United States may
26 exercise its right to acquire Atkemix Thirty-Seven's interest in the Land or any parcel therein
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1 during the Option Term. The United States may also, at its sole discretion, decline to exercise
2 its right to acquire Atkemix Thirty-Seven's interest in the Land or any parcel therein during
3 the Option Term.

4 (3) During the Option Term, Atkemix Thirty-Seven shall grant to the
5 United States, or its representatives, access at reasonable times to any portion of the Land and
6 any information pertaining to the Land for the purpose of inspecting the Land, complying with
7 the United States Department of the Interior's acquisition policies, including 602 Departmental
8 Manual, Chapter 2, and conducting other due diligence.

9 (4) The United States' decision to exercise or decline to exercise the
10 Option shall be expressed by written communication of the BLM Director or his designee to
11 Atkemix Thirty-Seven (the "Exercise Notice"). The Exercise Notice shall be sent by certified
12 mail no later than the last day of the 24th month following the Date of Final Approval of this
13 Consent Decree.

14 (5) Within 30 days of the date of receipt by Atkemix Thirty-Seven of
15 the Exercise Notice, Atkemix Thirty-Seven shall furnish the BLM Director or his designee, by
16 certified mail, a proposed conveyance in the form of a grant deed (as provided for under State
17 of California law). The BLM Director or his designee shall determine whether to accept the
18 proposed conveyance within 60 days of receipt.

19 (6) If the United States exercises the Option with respect to the Land
20 or any parcel therein during the Option Term, Atkemix Thirty-Seven shall, within 30 days of
21 the date of BLM's acceptance of the proposed conveyance, deliver to Escrow Holder, as
22 defined below, an executed and notarized grant deed (the "Deed").

23 (7) The conveyance to the United States shall be consummated
24 through an escrow with an escrow holder to be agreed upon by the Atkemix Thirty-Seven and
25 the BLM Director or his designee ("Escrow Holder"). The escrow shall be opened within five
26 days after the Exercise Notice has been given to Atkemix Thirty-Seven. The Deed shall be
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1 recorded within five business days after delivery of the approved Deed to the Escrow Holder.

2 Escrow shall be deemed to be closed on the date the Deed is recorded.

3 (8) Rent, taxes, and other items of income and expenses shall be
4 prorated as of the close of escrow.

5 (9) The United States shall pay the charges of Escrow Holder,
6 including recording fees and other fees and costs necessary to close escrow, together with the
7 cost of obtaining title insurance, if applicable.

8 F. The Settling Parties, upon the Effective Date of this Consent Decree,
9 hereby transfer all right, title and interest they may have in any plant and fixed equipment at
10 the Site to Trust I, in accordance with the terms of the Iron Mountain Mine Remediation Trust
11 Agreement I, attached hereto as Appendix N. Said transfer is on an "as is" basis and without
12 warranty of any sort. The Settling Parties also convey to Trust I as of the Effective Date an
13 assignment of any warranty rights they may have from third parties with respect to the plant
14 and equipment.

15 7. Within 30 days of the Effective Date of this Consent Decree, insurers for the
16 State agencies, Pacific Indemnity Company, Underwriters at Lloyd's (by their agent Equitas
17 Limited) and Company Market Insurers, shall pay, on behalf of the State agencies, \$8 million
18 (EIGHT MILLION DOLLARS) collectively into an escrow account bearing interest on
19 commercially reasonable terms, in a federally-chartered bank. Such monies shall remain in
20 escrow and may not be withdrawn by the State agencies, unless the Consent Decree has been
21 voided pursuant to Paragraph 110; in that event, all monies paid into escrow shall be returned
22 to the State agencies' insurers identified above, together with accrued interest thereon. Within
23 15 days after the Date of Final Approval of this Consent Decree, the State agencies shall cause
24 those funds, together with accrued interest, to be paid as follows:

25 A. \$5.0 million, together with accrued interest, to the Site Operator to
26 implement the Remedial Action associated with the mine working upgrades as set forth in

1 Section 9.9.2.2(5)(a) of the SOW, provided that the Policy has not been canceled as to the
2 Site Operator under Section VI, Paragraph G.4 of the Policy. Such monies shall be paid to the
3 Site Operator only after the Site Operator meets the financial assurance requirements for such
4 work as set forth in the SOW. In the event that the Policy is canceled as to the Site Operator
5 under Section VI, Paragraph G.4 of the Policy, \$5.0 million (together with accrued interest)
6 shall be instead paid as premium to AISLIC, which shall arrange for performance of the work
7 described in this Subparagraph, in accordance with the terms and conditions of the Policy and
8 the SOW. EPA agrees that the monies paid under this Subparagraph to the Site Operator or to
9 AISLIC for performance of the Remedial Action associated with the mine working upgrades
10 are reasonable, documented, direct, extra-mural, out-of-pocket expenditures of non-Federal
11 funds that have not been previously applied or reimbursed and shall be available to the State
12 for use as a credit against cost-share commitments under the State Superfund Contract in
13 connection with the Slickrock Creek Remedial Action, as amended to reflect the availability of
14 the credit as provided under this Subparagraph, and any future State Superfund Contracts for
15 the Site.

16 B. \$1 million, together with accrued interest, to DTSC. The monies paid
17 under this Subparagraph shall be paid to DTSC, along with a transmittal letter identifying the
18 Iron Mountain Mine project Code (Project Code 100077) to:

19 DTSC
20 Accounting Unit
21 P.O. Box 806
Sacramento, CA 95812-0806
Project Code 100077

22 C. \$1 million, together with accrued interest, to the CVRWQCB for
23 payment into a special account for use in connection with the Site pursuant to instructions to
24 be provided by the CVRWQCB; and

25 D. \$1 million, together with accrued interest, for payment into the DOI
26 fund described in Paragraph 6.A.(1)(a), above.

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1 8. Commitments by the Site Operator and AISLIC

2 A. Performance of the Work. The Site Operator shall perform activities in
3 accordance with this Consent Decree and the SOW, and all work plans and other plans,
4 standards, specifications, and schedules set forth therein or as modified in accordance with the
5 SOW, commencing on the date of purchase of the Policy. Upon the Effective Date of this
6 Consent Decree, the Site Operator shall arrange for the orderly assumption of its obligations
7 under the SOW and this Consent Decree in a manner that ensures the continuous operation of
8 the Treatment Plant and related facilities during the period between the termination of the
9 Settling Parties' obligations under Paragraph 118 of this Consent Decree and the start of the
10 Site Operator's performance under the SOW. If the Consent Decree is not approved and
11 entered by the Court, or if its approval and entry is subsequently vacated on appeal of such
12 approval and entry, the Site Operator shall have no obligations under this Consent Decree or
13 the SOW, unless the Parties otherwise agree.

14 B. Obligations of IT and ITX. IT and ITX shall be jointly and severally
15 liable with the Site Operator. IT or, as appropriate, ITX shall take all steps necessary to cause
16 the Site Operator to:

17 (1) post, provide, and maintain in effect the financial assurances
18 referenced in Section 7.13 of the SOW;

19 (2) post, provide, and maintain in effect the insurance coverages
20 referenced in Section 5.1 and 5.2 of the SOW; and

21 (3) meet the Performance Standards and other requirements of the
22 SOW and otherwise perform the Work as set forth in the SOW.

23 In the event that the Oversight Agency deems it necessary to seek performance by IT or ITX
24 of their obligations under this Paragraph, it may notify IT and ITX to require them to take all
25 steps necessary to cause the Site Operator to perform as provided immediately above and shall
26 send such notice to IT, ITX, and AISLIC at the same time it provides notice to the Site

1 Operator.

2 C. Obligations of AISLIC. Upon the payment provided for in Paragraph
3 6.B, AISLIC shall issue the Policy and shall make payments and perform other obligations as
4 provided in that document. In the event that AISLIC does not fulfill its obligations under the
5 Policy and this Consent Decree, IT, ITX, or the Site Operator may request that the Oversight
6 Agency seek appropriate relief from the Court and any other appropriate sanctions and
7 remedies. In the event that AISLIC fails to issue the Policy, make the initial payments, and
8 perform the other obligations required at the inception of the Policy as required under the
9 terms of this Consent Decree, the Site Operator's obligations shall be stayed pending action to
10 enforce AISLIC's obligations under the terms of the Policy and this Consent Decree and
11 pending Court resolution of such action. During any period of time that the Site Operator's
12 obligations are stayed in accordance with the preceding sentence, the Oversight Agency may
13 perform the Work otherwise required to be performed by the Site Operator under the SOW
14 (except for the short-term upgrades specified in Endorsements 3 and 3A of the Policy) and this
15 Consent Decree, and AISLIC shall reimburse the Oversight Agency for all response costs
16 incurred in performing such work, pursuant to the provisions of Paragraph 35 of this Consent
17 Decree..

18 9. Compliance With Applicable Law. The Site Operator shall comply with all
19 applicable federal and state laws as provided in the SOW. The activities conducted pursuant to
20 this Consent Decree, if approved by the Oversight Agency, shall be considered to be
21 consistent with the NCP.

22 10. Permits

23 A. As provided in Section 121(e) of CERCLA and Section 300.400(e) of
24 the NCP, no permit shall be required for any response actions conducted entirely on-site (i.e.,
25 within the areal extent of contamination and all suitable areas in very close proximity to the
26 contamination and necessary for implementation of such response actions) where such action is
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1 selected and carried out in accordance with CERCLA Section 121. Where any activity that is
2 not on-Site (as defined in the SOW) requires a federal or state permit or approval, the Site
3 Operator shall submit timely and complete applications and take all other actions necessary to
4 obtain all such permits or approvals.

5 B. The Site Operator may seek relief under the provisions of Section XVIII
6 (Force Majeure) of this Consent Decree for any delay in the performance of activities resulting
7 from a failure to obtain, or a delay in obtaining, any permit required for such activities.

8 C. This Consent Decree is not, and shall not be construed to be, a permit
9 issued pursuant to any federal or state statute or regulation.

10 11. Notice to Successors-in-Title. As set forth in the SOW, the Site Operator shall
11 provide notice to successors-in-title to any property interest acquired by the Site Operator in
12 the Site.

13 12. Inconsistency Between Consent Decree and SOW. If there is any inconsistency
14 between this Consent Decree and the SOW, or between the Consent Decree and the Policy, the
15 terms and provisions of this Consent Decree shall govern, except that (1) the definition of
16 "Site" contained in the SOW shall govern the Site Operator's obligations under the SOW, and
17 (2) the terms of the Policy shall control to the extent of any inconsistency between such terms
18 and the description of such terms provided in Paragraph 6.B.(2) of this Consent Decree.

19 13. United States - State Relationship. The relationship between the United States
20 and the State regarding this Consent Decree and oversight and support of the Work by the Site
21 Operator shall be governed by the Memorandum of Understanding Regarding The Iron
22 Mountain Mine Superfund Site Between The United States Environmental Protection Agency
23 and The California Department of Toxic Substances Control and The California Central Valley
24 Regional Water Quality Control Board ("MOU"), attached hereto as Appendix H.

25 A. Oversight and Support Agencies. EPA shall serve as the Oversight
26 Agency, and the State plaintiffs shall designate the State agency(ies) that will serve as the
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1 Support Agency unless and until EPA and the State plaintiffs modify this relationship as set
2 forth in the MOU.

3 B. Future Site Activities. The United States and the State plaintiffs
4 understand that, 30 years and one day after the Policy is funded pursuant to the terms of this
5 Consent Decree, AISLIC shall make a payment ("Terminal Payment"), pursuant to
6 Endorsement 4 of the Policy. The United States and the State plaintiffs further understand that
7 the Policy provides for a Notional Commutation Account from which certain funds may be
8 available for disbursement to the Plaintiffs upon commutation of the Policy in the 31st year
9 following the Effective Date of this Consent Decree. Subject to further agreement of the
10 United States and the State in accordance with Paragraph 3.1.2 of the MOU, or to resolution
11 by the Court as necessary pursuant to Paragraph 3.1.2 of the MOU, the Terminal Payment and
12 any funds payable to the Plaintiffs from the Notional Commutation Account shall be paid into
13 the federal Iron Mountain Mine Superfund Site Special Account, appropriate State account, or
14 other appropriate account, or shall be otherwise retained for the purposes set forth below.
15 Subject to further agreement of the United States and the State in accordance with the terms of
16 the MOU, the Terminal Payment and any monies available to the Plaintiffs from the Notional
17 Commutation Account shall be used for the following purposes in the following order of
18 priority:

19 (1) First, payment of the costs of continued performance of the Work
20 as defined in this Consent Decree and other actions in connection with operation and
21 maintenance of the remedies selected in RODs 1-4, by the Oversight Agency, Support
22 Agency, or other entity, for as long as necessary beyond the term set forth in the SOW;

23 (2) Second, and only to the extent that the costs of Item (1), above,
24 are able to be fully defrayed, payment of the costs of additional response actions at the Site,
25 not coming within the scope of Item (1), above; and

26 (3) Third, and only to the extent that the costs of Items (1) and (2).