



GENERAL CONDITIONS FOR SERVICE CONTRACTS

1. REPRESENTATIONS: Contractor understands that he must rely upon his own examination and investigation as to the scope and location of the Work to be performed and all local and general conditions which may affect performance of the Work.
2. SUPPLY OF ITEMS: Contractor shall supply and pay for all labor, tools, implements, equipment, machinery, utilities, materials, necessary supervision and any other item or service needed for the Work, except those items, if any, specified to be supplied by Owner.
3. PERFORMANCE:
 - A. Contractor shall perform the Work in the best and most workmanlike manner, using qualified, efficient and careful workers, in strict conformity with generally accepted professional practices and in compliance with all health, safety, security, fire protection and first aid requirements set forth in Exhibits "S" and "S-1," "Contractor Health, Safety, Security, Fire Protection and First Aid Requirements," to this Contract.
 - B. Time is of the essence of this Contract. Contractor understands that damages to Owner may result from any delay in completion of the Work or portions thereof.
 - C. Contractor shall take all reasonable precautions to perform the Work so as to not interfere with Owner's operations or with the operations of other contractors working on Owner's premises.
4. PERMITS, LICENSES AND FEES: Contractor shall obtain and pay for all permits, licenses and bonds and shall pay all fees and shall make all deposits which may be required by law or regulation to be obtained, paid for or made in connection with the prosecution of the Work, except for any such permits, licenses, bonds, fees and/or deposits which Owner may be required by law or regulation to obtain, pay for or make directly. The actual out-of-pocket cost of all such permits, licenses, bonds, fees and/or deposits obtained, paid for or made by Contractor will be in addition to the Contract price and will be paid by Owner to Contractor without markup upon submission of a proper invoice.
5. CONTRACTOR-FURNISHED INSURANCE:
 - A. Contractor shall, at his expense, procure and maintain the following insurance:
 - (a) WORKERS' COMPENSATION INSURANCE in the amount required by all applicable laws, including, without

limitation, the Longshore and Harbor Workers' Compensation Act and any other federal compensation act or maritime act, and EMPLOYER'S LIABILITY INSURANCE to a limit of not less than \$1,000,000. Contractor before commencing the Work shall be qualified under the workers' compensation laws of the state or states in which the Work or any portion of the Work is to be performed and shall at all times comply with the provisions of said laws. All subcontractors of Contractor shall be required by Contractor to maintain the above described insurance coverages and to comply with qualification requirements of all applicable workers' compensation laws; Contractor shall do so on behalf of his subcontractors if his subcontractors fail to maintain said insurance or to comply with said qualification requirements.

(b) COMPREHENSIVE GENERAL LIABILITY INSURANCE, including, without limitation, automobile liability covering Contractor and his employees for all of Contractor's operations hereunder, including, without limitation, the operations of all subcontractors, the operation of vehicles and equipment by Contractor or any and all subcontractors and liability assumed under the "Indemnity" provision of this Contract, with limits of not less than \$1,000,000 as a combined single limit for injury to, or death of, any person or persons and for property damage, including consequential loss, arising out of any single occurrence.

B. Prior to commencement of the Work, Contractor shall provide Owner with certificates of insurance which demonstrate compliance with the terms of this Article 5. The Comprehensive General Liability Policy (a) shall name Kaiser Aluminum as an additional insured, (b) shall provide that other insurance which Owner may have to insure loss shall be in excess of and not contribute to a loss to which the insurance provided herein by Contractor is applicable, and (c) shall provide that the insurer waives any right to subrogation which might arise by reason of any payment under the policies against Kaiser Aluminum, its subsidiaries, its affiliated companies and the agents and employees of any of the foregoing.

C. In insurance deductibles, if any, shall not exceed \$10,000 per occurrence and shall be absorbed entirely by Contractor with no contribution by Owner. In the event of a reduction or exhaustion of any aggregate limit, Contractor shall secure additional insurance or shall have excess insurance available so as to comply at all times with the above

requirements as to limits.

6. CHANGES:

A. Owner shall have the right to make any changes in or deletions from or additions to the Work. Contractor shall not depart from the requirements of this Contract unless first directed in writing, by Owner, and thereafter shall promptly comply with all such written directives of Owner.

B. Within five (5) days after receipt of such written notice, Contractor shall give Owner an estimate of the increase or decrease in the cost of the Work and time of performance resulting from such changes. The Contract price shall be increased or decreased, as the case may be, on account of each authorized change, addition or deletion by an amount equal to the sum of (a) the lowest reasonable increase or decrease, if any, in the direct cost of performing the Work resulting from such change, addition or deletion and (b) the allowances provided for in this Contract, or if no allowances are stated in this Contract, a maximum of fifteen percent (15%) of the direct cost to cover overhead and profit as the combined allowance to Contractor and all subcontractors for overhead and profit; provided that if the Contract price provides for unit prices, such unit prices shall be applicable in lieu of the amounts specified in clauses (a) and (b) of this sentence to the extent such change, addition or deletion involves Work covered by such prices. If any change or accumulation of changes is covered by unit prices or if unit prices are subsequently agreed upon and if quantities originally contemplated are so changed by such written Owner directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to Owner or to Contractor, the applicable unit prices shall be equitably adjusted. Under no circumstances, however, shall Contractor be entitled to any amount for indirect costs, damages or expenses of any nature regardless of the number, nature or timing of changes to the Work, including, without limitation, "impact" costs or labor inefficiency costs. The time for performance shall be increased or decreased, as the case may be, for each authorized change, addition or deletion by the lowest reasonable number of days by which the time required for Contractor's completion of each phase of the Work will be increased or decreased, if at all, as a result of such change, addition or deletion.

C. Owner may determine the amount of the increase or decrease in the Contract price and time for performance, if any, necessary to reasonably compensate Contractor for such change and shall issue an amendment to this Contract providing for such change in the Contract price and time for performance. Each such determination

by Owner shall be final and binding upon Owner and Contractor; and this Contract shall be modified in accordance therewith unless within thirty (30) days following Contractor's notice or receipt of such determination, Contractor protests such determination by written notice to Owner. Pending final resolution of any dispute arising under this Contract, unless Owner and Contractor otherwise agree in writing, Contractor shall proceed diligently with the performance of the Work and Owner shall continue to make payments subject to the terms of Article 8 "Payment."

7. DELAYS: If Contractor is delayed at any time in prosecuting the Work by (a) any act or neglect of Owner,

(b) changes in the Work, (c) delays, which Contractor could not reasonably foresee or provide against, in the issuance of permits, certificates or approvals from any governmental authority (collectively, clauses (a) through

(c) of this sentence, the "Compensable Delays") or by (d) fire or unavoidable casualties, (e) unusually severe and abnormal climatic conditions or (f) any other cause which Contractor and his subcontractors could not reasonably foresee or provide against (collectively, clauses (d) through

(f) of this sentence, the "Excusable Delays"), then the Contract price and time for performance shall be adjusted as follows. In the event of Compensable Delays, Contractor shall be entitled to an equitable adjustment both in the Contract price and in the time for performance. In the event of Excusable Delays, Contractor shall be entitled only to an equitable adjustment in the time for performance. If Contractor is delayed by lack of materials or equipment, Owner may supply such materials or equipment and the cost of such materials or equipment shall be deducted from the Contract price. Under no circumstances, however, shall Contractor be entitled to any amount for indirect costs, damages or expenses of any nature, including, without limitation, "impact" costs or labor inefficiency costs.

8. PAYMENT:

A. Contractor shall receive the Contract price as full and complete payment for the Work hereunder. Subject to all other provisions of this Contract, the above compensation shall be paid as provided in this Article 8.

B. Unless otherwise provided in this Contract, payment in full shall be made within forty-five (45) days after completion and acceptance of the Work by Owner and upon submission of a proper invoice by Contractor.

C. As a condition precedent to any payment under this

Contract, Contractor may be required to execute a written general release and waiver of all claims against Owner, its subsidiaries, affiliated companies and the directors, officers, employees, agents, representatives and property of any of the foregoing arising under or in any way connected with this Contract, and Owner may further require Contractor to furnish comparable written general releases and waivers of all claims by any and all subcontractors, assignees, vendors or others furnishing labor, materials, services or equipment in connection with Contractor's performance of this Contract except, in each case, for disputed claims, made in good faith, and specifically reserved in any such release and waiver furnished by Contractor or any of his subcontractors, assignees, vendors or such others.

D. Without limiting any other rights which Owner may have, whether pursuant to this Contract or otherwise, Owner may withhold all or any portion of any progress payment or final payment as and to the extent Owner, in good faith, determines such withholding to be necessary in order to protect it from loss because of (a) defects in workmanship or materials, (b) claims, levies, attachments, stop notices or court orders filed, or evidence indicating probable filing of such claims, levies, attachments, notices or orders, including claims covered by insurance until such claims are accepted by Contractor's insurance carrier, (c) claims, whether valid or not, that Contractor has failed to make payments promptly or properly to his subcontractors, or for labor (including fringe benefits) or for materials, equipment, transportation, shipping costs, services, taxes, fees or any other obligation arising out of the Work; (d) reasonable indication that the Work cannot be completed for the unpaid balance of the Contract price, (e) damage to Owner's property, any portion of the Work or to any work performed by Owner, another contractor or subcontractor, (f) reasonable indication that the Work cannot be completed within the time for completion set forth in this Contract, (g) failure to furnish sufficient, properly skilled labor or to supply sufficient materials or otherwise to diligently prosecute the Work, (h) failure to deliver updated progress schedules if required under the provisions of this Contract as to content or time for submission, (i) failure to deliver, if required under the provisions of this Contract, insurance certificates, bonds, as-built information, written guarantees or warranties or to obtain permits or approvals required by any authority having jurisdiction over the Work, (j) failure to adhere to laws, ordinances, regulations or orders of any authority having jurisdiction over the Work or the project site, (k) failure to discharge or bond a mechanic's or materialman's lien or notice of lien or stop notice filed against any part of the Work or the project site in a manner satisfactory to Owner, or (l) any other failure to

perform in accordance with the provisions of this Contract. If Owner exercises its right to withhold hereunder in good faith, Contractor shall not be entitled to any interest whatsoever on the money so withheld, regardless of the outcome of any subsequent claim resolution. When the cause for any withholding hereunder has been remedied by Contractor to Owner's satisfaction, the amount withheld shall be released and paid.

E. Any overpayment by Owner to Contractor shall be deemed to be a mistake of fact and promptly repaid to Owner upon demand.

9. LIENS: Contractor shall immediately discharge or obtain releases for stop notices, liens, attachments or levies which may be filed in connection with the Work or any work by Contractor under any other contract with Owner. Owner may withhold from any moneys due Contractor, in addition to amounts withheld under Article 8 "Payment," one hundred twenty-five percent (125%) of the aggregate amount of stop notices, liens, attachments or levies until the same are discharged, satisfied or released.
10. SUSPENSION OF WORK: Owner may, for its convenience, suspend the Work in whole or in part at any time by written notice to Contractor stating the nature, effective date and anticipated duration of such suspension; whereupon, Contractor shall suspend the Work to the extent specified and shall place no further orders or subcontracts relating thereto. During the period of any such suspension, Contractor shall protect and care for all Work, materials and equipment at the project site or at storage areas under his responsibility. Contractor shall give Owner copies of all outstanding orders and subcontracts for materials, equipment and services and shall take any action on such orders and subcontracts as Owner may direct. If the cost of the Work, including the cost of any additions to the Work made necessary by the suspension, is increased or decreased by such suspension, the Contract price shall be adjusted in accordance with the provisions of Article 6 "Changes" unless the suspension is necessitated, in whole or in part, by a failure of Contractor to comply with the requirements of this Contract.

11. TERMINATION FOR CONVENIENCE:

Owner may, for its convenience, terminate the Work in whole or in part at any time by written notice to Contractor stating the extent and effective date of such termination; whereupon Contractor shall (a) stop all work and place no further orders or subcontracts for materials, services, equipment or supplies, except as may be necessary to complete portions of the Work not

terminated, (b) assign to Owner, in the manner and to the extent directed, all of the rights of Contractor under work orders, purchase orders and subcontracts relating to the terminated portion of the Work, (c) terminate work orders, purchase orders and subcontracts outstanding to the extent that they relate to the terminated portion of the Work and are not assigned to Owner, (d) take any necessary action to protect property in Contractor's possession in which Owner has or may acquire an interest, (e) complete performance of the unterminated portion of the Work, and (f) take any other action toward termination of the Work which Owner may direct.

12. In the event of a termination of the Work or any portion thereof under this Article 11, Owner will pay to Contractor, subject to the limitations hereinafter set forth, the sum of (a) the costs incurred by Contractor in the performance of the terminated portion of the work prior to termination, (b) an allowance for overhead, general and administrative expenses, including those of all subcontractors, which shall in no event exceed fifteen percent (15%) of direct costs, and (c) an allowance for profit not to exceed ten percent (10%) of the foregoing in lieu of profit. Deductions will be made by Owner for amounts previously paid to Contractor and for any amounts which may be due Owner or which Owner may offset or withhold by the terms hereof. In any event, the total amount of all payments to Contractor shall not exceed the proportion of the total Contract price that the Work actually performed (including materials delivered to the project site or in transit to the project site) at the date of termination (less a reasonable allowance to cover the cost of correcting any defective Work) bears to the entire Work to be performed hereunder. Any payment to Contractor under this Article 11 shall be made in accordance with the provisions of Article 8 "Payment."

13. FAILURE BY CONTRACTOR:

A. In the event (a) Contractor fails to diligently prosecute the Work (except in cases for which an extension of time is provided), (b) Contractor fails to make the progress set forth in this Contract, (c) Contractor fails to supply enough properly skilled workers or proper materials for the work, (d) Contractor performs the Work in a manner which he knows or should have known to be defective, (e) Contractor disregards any laws, ordinances, regulations or orders of any authority having jurisdiction over the Work or the project site, (f) a mechanic's or materialman's lien or notice of lien is filed against any part of the Work or the project site and is not promptly bonded over in a manner satisfactory to Owner, (g) Contractor fails to pay any indebtedness when due, becomes insolvent, or in the event any voluntary or involuntary proceedings are instituted by or against Contractor in bankruptcy or insolvency, or in the event a

receiver, trustee or assignee for the benefit of creditors of Contractor is appointed, or

(h) Contractor fails to perform any of the conditions of or obligations assumed under this Contract, Owner shall have the right, if it so elects and without prejudice to any other rights it may have, to suspend payment in whole or in part under this Contract until the default has been remedied and/or to take the Work remaining to be completed wholly or partly out of the hands of Contractor or any other person in whose hands or possession the Work or any part of it may be, in which event Owner may take over such of Contractor's and such other person's tools, equipment, materials and supplies as Owner deems necessary to complete such Work or may award such Work to another contractor, all at Contractor's expense. In such event, Contractor, in the manner and to the extent directed by Owner, and only to that extent, shall assign to Owner all of the rights of Contractor under work orders, purchase orders and subcontracts relating to the Work.

B. In the event Owner exercises any of its rights under Paragraph A of this Article 12, Contractor shall not receive any further payment for the portion of the Work taken out of the hands of Contractor until the Work is completed. The actual expense of completion, including subcontracting costs and compensation for materials and equipment furnished by Owner and for its managerial and administrative expenses attributable thereto, shall be certified by Owner and shall be binding on the parties. If such expense shall be less than the unpaid balance of the Contract price to be paid Contractor for fully performing the Work, the difference shall be paid to Contractor in accordance with the provisions of Article 8 "Payment"; and the property of Contractor or such other person shall be released to Contractor or such other person, as the case may be, at the project site. If such expense exceeds the unpaid balance of such Contract price, Contractor shall promptly pay the difference to Owner on demand. Owner may retain possession of and/or place in storage Contractor's or such other person's equipment and property, at the sole risk and expense of Contractor or such other person, as the case may be, until such payment is made, and may, upon sixty (60) days' notice, sell the same at public or private sale and be a purchaser thereat and may execute any act or deed on behalf of and as agent of Contractor or such other person, as the case may be, to complete the sale and to transfer and perfect the title of any purchaser thereof.

C. In addition to the rights provided above, Owner shall have and may exercise or enforce any other rights or remedies provided by law or equity for any default or breach by Contractor; and Contractor shall be liable for and shall pay any losses or damages suffered by Owner

arising out of any such breach or default by Contractor in the performance of this Contract.

D. CONFIDENTIAL INFORMATION: All information, including plans, drawings, designs, calculations, specifications, reports, daily logs, data and other information disclosed to Contractor by or on behalf of Owner, or prepared by Contractor in connection with the Work, shall remain or become, as the case may be, the property of Owner and shall be held in confidence by Contractor and shall neither be disclosed nor used by Contractor for any purpose other than the performance of the Work. All such material shall be delivered to Owner by Contractor upon completion of the Work or upon request, whichever is sooner. These provisions shall be likewise applicable to Contractor, his subcontractors, vendors, suppliers and the directors, officers, employees or agents of any of them and Contractor shall ensure that each such person having access to such confidential information is made aware of, and shall comply with, the foregoing obligations as to non-disclosure and use.

14. CAMERAS, PHOTOGRAPHS AND OTHER MEDIA: Contractor shall not bring any cameras onto the premises of Owner and shall not take, have taken or otherwise obtain photographs, films, videotapes or other media representations of any kind of Owner's premises, including, without limitation, photographs, films, videotapes or other media representations of the Work at various stages of progress or upon completion thereof, or photographs, films, videotapes or other media representations of any plans, drawings, specifications or other subject matter relating to the Work without the prior written consent of Owner. In the event that Owner does authorize Contractor to take, have taken, or otherwise obtain any such photographs, films, videotapes or other media representations, the receipt and use thereof will be subject to such terms and conditions as Owner deems appropriate at the time. The aforesaid restrictions concerning photographs, films, videotapes and other media representations shall also apply in the event any of the Work is to be performed off Owner's premises.

15. PATENTS, TRADE SECRETS, COPYRIGHTS AND TRADEMARKS:

A. Contractor shall indemnify, defend and hold Owner (including its successors in interest) harmless from and against any action against Owner based on a claim that the Work or any part thereof, including any process, system, method or arrangement used by Contractor, furnished by Contractor pursuant to this Contract, or the operation or use of the Work or any part thereof by Owner, constitutes infringement of any U.S. Patent, now

or hereafter issued, or violates any other proprietary interest including, without limitation, copyrights, trademarks and trade secrets, if Contractor is notified promptly in writing and is given authority, information and assistance, at Contractor's expense, for the defense of the action.

B. In the event Owner is enjoined from the operation or use of the Work or any part thereof in connection with any said action, Contractor shall, at his expense, take all reasonable steps to procure for Owner the right to operate or use the Work. If Contractor cannot so procure the right within a reasonable time, Contractor shall then promptly, at his expense, (a) modify the Work so as to avoid infringement or violation of any patent or other proprietary interest, (b) replace the Work with work which does not infringe or violate any patent or other proprietary interest, or (c) remove the Work, refund to Owner any Contract compensation theretofore paid to Contractor and pay to Owner any transportation costs and other expenses that may have been paid or incurred by Owner in connection with the Work so removed.

C. In the event any said action is based on infringement or violation of a proprietary interest (a) relating solely to specifications and drawings furnished by Owner, to a particular process or the product of a particular manufacturer specified by Owner or to Owner-furnished items, and (b) such specifications, drawings, processes or products are something other than that which has been offered or recommended by Contractor to Owner or to other parties, then the provisions of Paragraphs A and B of this Article 15 shall not be applicable.

16. LABOR AGREEMENTS AND COSTS:

A. Operations at a number of Owner's plants are governed by agreements with labor unions, and copies of such agreements will be made available at Contractor's request. Contractor agrees to take such action as may be necessary to avoid disrupting relations between Owner and its employees, if not inconsistent with applicable laws.

B. Unless expressly provided otherwise in this Contract, no adjustment in payment will be allowed Contractor for any increase in labor costs, including, without limitation, changes in working conditions, wages and fringe benefits.

17. INDEMNITY:

A. Contractor shall indemnify, save harmless and defend Owner, its subsidiaries, its affiliated companies and the directors, officers, employees, agents and

representatives of any of the foregoing from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs and expenses of whatsoever kind or character, including, without limitation, attorneys' fees and expenses, arising out of or by reason of any liability or obligation in any manner caused or occasioned by or claimed to be caused or occasioned by, any act, omission, fault or negligence of Contractor or anyone acting on his behalf, including, without limitation, subcontractors and vendors, their subcontractors and sub vendors and the directors, officers, employees, agents and representatives of any of the foregoing, in connection with or incident to this Contract or the performance of the Work except where caused by the concurrent negligence of Owner, its directors, officers, employees, agents and representatives (other than Contractor or anyone acting on his behalf), in which event Contractor's liability for the payment of damages, costs and expenses hereunder shall be reduced in proportion to the negligence of Owner, its directors, officers, employees, agents and representatives (other than Contractor or anyone acting on his behalf) on the basis of comparative negligence or fault.

B. Without limiting the foregoing, Contractor shall indemnify, save harmless and defend Owner, its subsidiaries, its affiliated companies and the directors, officers, employees, agents and representatives of any of the foregoing from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs and expenses of whatsoever kind or character, including, without limitation, attorneys' fees and expenses, arising out of or by reason of any injuries (including death) or damage to any person or entity employed by or acting on Contractor's behalf in connection with this Contract, except where caused by the concurrent negligence of Owner, its directors, officers, employees, agents and representatives (other than Contractor or anyone acting on his behalf), in which event Contractor's liability for the payment of damages, costs and expenses hereunder shall be reduced in proportion to the negligence of Owner, its directors, officers, employees, agents and representatives (other than Contractor or anyone acting on his behalf) on the basis of comparative negligence or fault.

C. Contractor's obligations under this Article 17 and under Article 13 "Confidential Information" and Article 15 "Patents, Trade Secrets, Copyrights and Trademarks" shall continue without limitation as to time, notwithstanding the extinguishment of other rights and duties under this Contract by completion, Contract termination of any other manner.

A. Contractor shall be responsible for and shall pay all contributions, taxes and assessments which are measured by wages, salaries or other remuneration paid to persons employed by Contractor or his subcontractors for the Work, or which arise by virtue of their employment, and which now or hereafter may be imposed by any governmental body. Such contributions, taxes and assessments shall include, without limitation, those for social security, disability, unemployment and other benefits, and for income withholding taxes. Contractor shall comply with all administrative regulations relating to such matters.

B. Contractor shall be responsible for and shall pay all taxes, excises, assessments or other charges of any kind levied by any governmental body on or because of the Work or on or because of the use of any equipment, supplies, material or labor in the performance of this Contract.

19. LAWS AND REGULATIONS: Throughout the performance of the Work, Contractor shall comply with all applicable federal, state and local laws, ordinances and regulations, whether existing or hereafter enacted, of all governing bodies having jurisdiction over the Work or any part thereof. In addition, Contractor shall comply with all rules and regulations which, from time to time, may be issued by Owner concerning security, health, welfare, conduct and other similar matters.
20. NOTICES: All notices under this Contract shall be in writing and may be served by either party on the other by hand, facsimile, telex, telegram, cablegram or regular mail addressed to the respective party at the address indicated in this Contract. The address of either party may be changed at any time by written notice of such change to the other party. Any such notice shall be effective upon delivery to the intended recipient or seven (7) days after being placed in the ordinary course of the mail, postage paid and properly addressed, whichever occurs first.
21. INDEPENDENT CONTRACTOR: Contractor shall perform the Work solely as an independent contractor and not as the agent or employee of Owner.
22. ASSIGNMENT AND SUBCONTRACTING: Neither this Contract nor any right, privilege or obligation hereunder shall be assigned or delegated by subcontract or otherwise in whole or in part by Contractor without the prior written consent of Owner. Any attempted assignment without such prior written consent shall be void.

18. TAXES:

23. **WAIVER:** No waiver of any provision of this Contract shall constitute a waiver of any other provision of this Contract or of the same or any other provision in any other instance. No waiver shall be effective except in writing signed by the authorized representatives of the parties hereto.
24. **ENTIRE CONTRACT:** This Contract contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all negotiations, proposals, agreements and understandings, whether written or oral, with respect thereto. No amendment, variance or change in the provisions of this Contract shall be effective except in writing signed by the authorized representatives of the parties hereto.
25. **APPLICABLE LAW:** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee without reference to principles regarding conflict laws.