

PUBLIC COMMENT DRAFT

OLD WORKS GOLF COURSE AGREEMENT

BY AND AMONG

ATLANTIC RICHFIELD COMPANY,

ANACONDA-DEER LODGE COUNTY

AND

OLD WORKS GOLF COURSE, INC.

Effective _____

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ATTACHED EXHIBITS

- Exhibit 1 ADLC Certificate of Insurance
- Exhibit 2 Funding Spreadsheet
- Exhibit 3 Old Works Golf Course Operations and Maintenance (O&M) Plan
- Exhibit 4 Golf Course OM&M Budget for Calendar Year 2019
- Exhibit 5 Golf Course OM&M Budget Form for Calendar Year 2020
- Exhibit 6 Reconfigured Golf Course Parcel Certificate of Survey
- Exhibit 7 1994 Golf Course Parcel Deed
- Exhibit 8 2002 Modification of Restrictive Covenants and Related Deed Provisions
- Exhibit 9 2019 Parcel Reconfiguration Agreement
- Exhibit 10 Golf Course Water Rights Quitclaim Deed

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OLD WORKS GOLF COURSE AGREEMENT

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

RECITALS

WHEREAS, the Parties hereto are parties to that certain Real Property Conveyance/Transfer Agreement dated May 5, 1994 (hereinafter defined, "Conveyance Agreement"); and

WHEREAS, pursuant to the Conveyance Agreement, AR, among other things, conveyed the Golf Course Parcel (hereinafter defined) and surrounding property to ADLC and thereafter designed and constructed the Golf Course on the Golf Course Parcel; and

WHEREAS, the Parties hereto agreed to reconfigure the dimensions and legal description of the Golf Course Parcel pursuant to that certain Parcel Reconfiguration and Modification of Restrictive Covenants Agreement (Golf Course Parcel) dated [REDACTED], 2019 (hereinafter defined, "Parcel Reconfiguration Agreement") to be consistent with the final footprint of the Golf Course as it was constructed and is now operating; and

WHEREAS, ADLC created the Golf Course Authority and adopted the Golf Course Ordinance (hereinafter defined) for the purpose of managing, operating and maintaining the Golf Course pursuant to the Conveyance Agreement; and

WHEREAS, the Parties agree that amendment of the Golf Course Ordinance was essential for the long-term viability of the Golf Course and the effective implementation of this Agreement, and such amendments were adopted by Ordinance No. [REDACTED] on September [DATE], 2019; and

WHEREAS, the Parties hereto are also parties to the Golf Course Loan Agreement (hereinafter defined); and

WHEREAS, pursuant to the Golf Course Loan Agreement, AR loaned funds to the Golf Course Authority in the total principal amount of \$1,230,000.00 to pay for certain capital, operation and maintenance expenses for the Golf Course; and

WHEREAS, ADLC is an additional obligor and is jointly and severally liable with the Golf Course Authority for all of the Golf Course Authority's obligations under the Golf Course Loan Agreement; and

WHEREAS, the Golf Course Authority and ADLC have requested AR to forgive the total indebtedness of the Golf Course Authority and ADLC under the Golf Course Loan Agreement; and

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WHEREAS, ADLC has also requested that AR provide certain additional funding to ADLC for the continued operation, management and maintenance of the Golf Course during the Term of this Agreement (hereinafter defined); and

WHEREAS, AR is willing to forgive the total indebtedness of the Golf Course Authority and ADLC under the Golf Course Loan Agreement and provide certain additional funding for ADLC's continued operation, management and maintenance of the Golf Course during the Term of this Agreement, subject to and in accordance with the terms and conditions of this Agreement; and

WHEREAS, ADLC has also requested the right and option following the termination or expiration of this Agreement to (i) re-convey the Golf Course to AR, or (ii) convert the Golf Course to an alternative open space/recreational use that protects and is consistent with waste containment remedy set forth in the ROD (hereinafter defined); and

WHEREAS, AR is willing to provide ADLC the right and option following the termination or expiration of this Agreement to (i) own and operate the Golf Course without financial support from AR, (ii) re-convey the Golf Course to AR, or (iii) convert the Golf Course to an alternative open space/recreational use that protects and is consistent with waste containment remedy set forth in the ROD, subject to and in accordance with the terms and conditions of this Agreement.

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

ARTICLE I DEFINITIONS

Section 1.1 Definitions. Whenever terms listed below are used in this Agreement or in the exhibits attached hereto and incorporated hereunder, the following definitions shall apply:

1.1.1 “**Access Agreement**” shall mean that certain Access Agreement dated May 5, 1994, and recorded on May 5, 1994, at Book 96, Page 146 in the real property records of ADLC, as modified by the Parcel Reconfiguration Agreement.

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

1.1.3 “**ADLC Certificate of Insurance**” shall mean the Certificate of Insurance Coverage attached as Exhibit 1 hereto and any such subsequent certificate of insurance of ADLC.

1.1.4 “**ADLC Default**” shall have the meaning ascribed to the term in Section 8.1 hereof.

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

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1.1.6 “**Agreement**” shall mean this Old Works Golf Course Agreement and all Exhibits attached hereto.

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

1.1.8 “**AR Default**” shall have the meaning ascribed to the term in Section 8.2 hereof.

1.1.9 “**Calendar Year**” shall mean an initial period commencing on the Effective Date and ending on December 31, 2019. Thereafter, the term shall mean a twelve (12) month period commencing on January 1 and ending on December 31.

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

1.1.11 “**Community Amenities Trust Account**” shall mean a segregated and separate account of ADLC, with a financial institution acceptable to ADLC and AR, that is established pursuant to Section 10.6 hereof.

1.1.12 “**Community Amenities Trust Account Accounting Report**” shall mean an annual accounting report, in a form acceptable to ADLC and AR, of all amounts withdrawn by ADLC from the Community Amenities Trust Account during the prior Calendar Year.

1.1.13 “**Consent Decree**” shall mean a consent decree for remedial design and remedial action at the Anaconda Smelter National Priorities List (NPL) Site that is executed by AR, EPA and the State and approved and entered as a final judgment by the Court.

1.1.14 “**Conversion Plan**” shall mean the conversion plan prepared by AR, with input from ADLC, and approved by EPA pursuant to Section 10.5 hereof.

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

1.1.16 “**Court**” shall mean the United States District Court for the District of Montana, Butte Division.

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

1.1.18 “**CPI**” shall mean the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics for All Urban Consumers (CPI-U), U.S. City Average, all items not seasonally adjusted, 1982-1984 = 100 reference base, a copy of which, as published through [REDACTED] of 2019, is attached to the Funding Spreadsheet.

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

1.1.20 “**CPI Base Figure**” shall mean the CPI index figure published for the month that corresponds with the Effective Date.

1.1.21 “**Default**” shall mean an AR Default and/or an ADLC Default, as applicable.

1.1.22 “**Effective Date**” shall mean the date on which this Agreement is fully executed by all Parties.

1.1.23 “**Environmental Conditions**” shall have the meaning ascribed to the term in the Golf Course Parcel Deed.

1.1.24 “**Environmental Laws**” shall have the meaning ascribed to the term in the Golf Course Parcel Deed.

1.1.25 “**EPA**” shall mean the United States Environmental Protection Agency and any successor agency thereto.

1.1.26 “**Force Majeure**” shall mean any event arising from causes beyond the control of a Party, of any entity controlled by a Party, or of Party’s contractors, which delays or prevents the performance of any obligation under this Agreement despite the Parties’ best efforts to fulfill the obligation. The requirement that a Party exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential Force Majeure event and best efforts to address the effects of any potential Force Majeure event (i) as it is occurring and (ii) after the potential Force Majeure event, such that the delay is minimized to the greatest extent possible. Any event that constitutes a Force Majeure event as defined in any order or decree to which EPA is a party shall also constitute a Force Majeure event for purposes of this Agreement, *provided, however*, that Force Majeure does not include a Party’s inability to complete its obligations under this Agreement due to its financial condition or insufficient human resources.

1.1.27 “**Funding Spreadsheet**” shall mean the Funding Spreadsheet attached as Exhibit 2 hereto.

1.1.28 “**Golf Course**” shall mean the Golf Course Parcel and the features that collectively comprise the Old Works Golf Course including each of the Golf Course Remedial Features and Superfund Remedial Features identified and described in Part III the Golf Course O&M Plan and all related improvements and facilities located on the Golf Course Parcel, and all equipment, machinery, inventory, tools, licenses, records and other items of personal property used in the implementation and performance of Golf Course OM&M Activities.

1.1.29 “**Golf Course Authority**” shall mean Old Works Golf Course, Inc., a Montana non-profit corporation, together with all of its predecessors, successors (merged, acquired or otherwise), subsidiaries and assigns.

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1.1.30 “**Golf Course Capital Expenses**” shall mean the expenses reasonably incurred by ADLC for any construction or installation of any new Golf Course Remedial Features or other capital improvements that support the operation and management of the Golf Course as a public golf course.

1.1.31 “**Golf Course Capital Trust Account**” shall mean a segregated and separate account of ADLC, with a financial institution acceptable to ADLC and AR, that is established pursuant to Section 5.1 hereof.

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

1.1.33 “**Golf Course Remedial Features**” shall mean all features of the Golf Course identified and described as “Golf Course Remedial Features” in Part III of the Golf Course O&M Plan. The term shall not include any Superfund Remedial Features.

1.1.34 “**Golf Course Loan Agreement**” shall mean the Addendum to Real Property Conveyance/Transfer Agreement between AR, ADLC and Golf Course Authority dated May 31, 2012, as amended by the Second Addendum to Real Property Conveyance/Transfer Agreement dated May 6, 2014, the Third Addendum to Real Property Conveyance/Transfer Agreement dated December 16, 2014, the Fourth Addendum to Real Property Conveyance/Transfer Agreement dated July 5, 2016 and the Fifth Addendum to Real Property Conveyance/Transfer Agreement dated December 21, 2016.

1.1.35 “**Golf Course Manager**” shall, unless otherwise agreed by ADLC and AR in writing, mean a Person who has five or more years of experience in the management of golf courses and related facilities, and is (i) an individual Professional Golf Association (PGA) member, (ii) an individual Club Management Association of America (CMAA) Certified Club Manager, or (iii) a professional golf management company that engages an individual qualified under (i) or (ii) as the general manager of the Golf Course.

1.1.36 “**Golf Course Management Agreement**” shall mean a written agreement for the operation, management and maintenance of the Golf Course entered into between ADLC and an approved Golf Course Manager in accordance with the terms of Section 3.2 hereof and the Golf Course Ordinance.

1.1.37 “**Golf Course MOU**” shall mean the Memorandum of Understanding between AR, ADLC and Golf Course Authority dated September 1, 2017, as amended by the Addendum No. 1 to Memorandum of Understanding dated November 1, 2017, the Addendum No. 2 to Memorandum of Understanding dated April 23, 2018 and the Addendum No. 3 to Memorandum of Understanding dated October 1, 2018.

1.1.38 “**Golf Course O&M Plan**” shall mean the [REDACTED] 2019 Anaconda Smelter NPL Site Old Works/East Anaconda Development Area Operable Unit Final Old Works Golf Course Operations and Maintenance Plan attached as Exhibit 3 hereto and any amendments thereto agreed to by AR, ADLC and EPA.

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1.1.39 “**Golf Course OM&M Activities**” shall mean all actions and activities which may be required to operate, manage and maintain the Golf Course as a public golf course, including Routine Maintenance of Golf Course Remedial Features, Major Repairs and Replacements of Golf Course Remedial Features, and other activities for which responsibility is assigned to ADLC pursuant to Parts III and IV of the Golf Course O&M Plan.

1.1.40 “**Golf Course OM&M Budget for Calendar Year 2019**” shall mean the approved budget for Golf Course OM&M Activities for Calendar Year 2019 that is attached as Exhibit 4 hereto.

1.1.41 “**Golf Course OM&M Budget for Calendar Year 2020**” shall mean a Calendar Year budget, in the form of the budget attached hereto as Exhibit 5, which sets forth all reasonably anticipated revenues and expenses associated with the implementation and performance of Golf Course OM&M Activities during Calendar Year 2020.

1.1.42 “**Golf Course OM&M Cost Savings**” shall mean the amount by which the revenues generated from Golf Course OM&M Activities during a Calendar Year exceed the expenses reasonably incurred by ADLC for Golf Course OM&M Activities during that Calendar Year, as determined by generally accepted accounting principles.

1.1.43 “**Golf Course OM&M Deficit**” shall be the amount by which the expenses reasonably incurred by ADLC for Golf Course OM&M Activities during a Calendar Year exceed the combined total amount of: (i) the funding provided by AR pursuant to either the Golf Course MOU and/or or Article IV of this Agreement for that Calendar Year, and (ii) the revenues generated from the Golf Course OM&M Activities during that Calendar Year, as determined by generally accepted accounting principles.

1.1.44 “**Golf Course OM&M Expenses**” shall mean the expenses reasonably incurred by ADLC for ADLC’s implementation and performance of the Golf Course OM&M Activities required of ADLC pursuant to Section 3.2.

1.1.45 “**Golf Course OM&M Trust Account**” shall mean a segregated and separate account of ADLC, with a financial institution acceptable to ADLC and AR, that is established pursuant to Section 4.1 hereof.

1.1.46 “**Golf Course OM&M Trust Account Accounting Report**” shall mean an annual accounting report, in a form acceptable to ADLC and AR, of all amounts withdrawn by ADLC from the Golf Course OM&M Trust Account during the prior Calendar Year.

1.1.47 “**Golf Course Ordinance**” shall mean ADLC’s Old Works Golf Course ordinance, codified as Chapter 2, Article VIII of the Anaconda-Deer Lodge County Code, as amended by Ordinance No. [REDACTED] adopted by ADLC on September [DATE], 2019.

1.1.48 “**Golf Course Parcel**” shall mean the real property described as Tract A of Certificate of Survey No. [REDACTED] filed on [REDACTED], 2019 at Reception No. [REDACTED] in the real property records of ADLC and as Tract 1 of Certificate of Survey No. 324-A filed on October 9, 2001 at Reception No. 163470 in the real property records of ADLC (attached as Exhibit 6 hereto). For purposes of this Agreement, the Golf Course Parcel shall have

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the same meaning as the “Reconfigured Golf Course Parcel” as such term is defined in the Parcel Reconfiguration Agreement.

1.1.49 “**Golf Course Parcel Deed**” shall mean that certain Quitclaim Deed dated May 5, 1994, and recorded on May 5, 1994, at Book 96, Page 198 in the real property records of ADLC (Exhibit 7), as modified by that certain Modification of Restrictive Covenants and Related Deed Provisions dated April 25, 2002, and recorded on May 2, 2002, at Book 149, Page 7 in the real property records of ADLC (Exhibit 8), and as further modified by the Parcel Reconfiguration Agreement (Exhibit 9).

1.1.50 “**Golf Course Promissory Note**” shall mean the Promissory Note dated May 22, 2012 that was executed by Golf Course Authority as the “Obligor” and ADLC as the “Additional Obligor” pursuant to the Golf Course Loan Agreement.”

1.1.51 “**Golf Course Water Rights**” shall mean the water and water supply available from and under that certain Montana Department of Natural resources and Conservation Change Authorization No. 76G-3234201 and Water Right Number 76G P092739-00.

1.1.52 “**Golf Course Water Rights Deed**” shall mean the form of Quitclaim Deed attached hereto as Exhibit 10.

1.1.53 “**Governmental Entity**” shall mean any Federal or State government administrative agency or commission, or other governmental authority or instrumentality having jurisdiction over the Parties and the subject matter of this Agreement. For purposes of this Agreement, the term shall not include ADLC.

1.1.54 “**Major Repairs and Replacements of Golf Course Remedial Features**” shall mean all major repairs, relocations, and replacements of Golf Course Remedial Features performed by ADLC and/or AR pursuant to Part IV of the Golf Course O&M Plan.

1.1.55 “**Major Repairs and Replacements of Superfund Remedial Features**” shall mean all major repairs, relocations, and replacements of Superfund Remedial Features performed by ADLC and/or AR pursuant to Part IV of the Golf Course O&M Plan.

1.1.56 “**Parcel Reconfiguration Agreement**” shall mean that certain Parcel Reconfiguration and Modification of Restrictive Covenants Agreement (Golf Course Parcel) between the Parties dated [REDACTED], 2019, and recorded on [REDACTED], 2019, at Book [REDACTED], Page [REDACTED] in the real property records of ADLC (attached as Exhibit 9).

1.1.57 “**Parties**” shall mean AR, ADLC and Golf Course Authority.

1.1.58 “**Party**” shall mean AR, ADLC or Golf Course Authority, as applicable.

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

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1.1.60 “**Preexisting Environmental Conditions**” shall mean those Environmental Conditions that existed and were present on the Golf Course Parcel at the time of AR’s completion of the construction of the Golf Course in 1997.

1.1.61 “**Reimbursement Agreement**” shall mean the Old Works/East Anaconda Development Area O&M Obligations Reimbursement Agreement between AR and ADLC dated May 5, 1994.

1.1.62 “**Releases and Covenants Not to Sue**” refers to the releases and covenants not to sue set forth in Section D of the Additional Provisions of the Golf Course Parcel Deed.

1.1.63 “**ROD**” shall mean the Record of Decision issued on March 8, 1994 by EPA pursuant to CERCLA for the Old Works/East Anaconda Development Area Operable Unit of the Anaconda Smelter NPL Site, together with all attachments, amendments, modifications and explanations of significant differences thereto issued by EPA before or after the Effective Date, and all implementing documents and work plans that are approved by EPA and related amendments, modifications, and explanations of significant differences.

1.1.64 “**Routine Maintenance of Golf Course Remedial Features**” shall mean all routine maintenance of Golf Course Remedial Features performed by ADLC and/or AR pursuant to Part III of the Golf Course O&M Plan.

1.1.65 “**Routine Maintenance of Superfund Remedial Features**” shall mean all routine maintenance of Superfund Remedial Features performed by AR pursuant to Part III of the Golf Course O&M Plan.

1.1.66 “**Slag Supply Agreement**” shall mean the Old Works Golf Course Slag Supply Agreement between AERL and Golf Course Authority dated June 1, 2012.

1.1.67 “**Superfund Remedial Features**” shall mean all features of the Golf Course identified and described as “Superfund Remedial Features” in Part III of the Golf Course O&M Plan. The term shall not include any Golf Course Remedial Features.

1.1.68 “**State**” shall mean the State of Montana.

1.1.69 “**Term of this Agreement**” shall have the meaning ascribed to the term in Section 9.1 hereof.

ARTICLE II REPRESENTATIONS AND COVENANTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE III GOLF COURSE OPERATIONS, MANAGEMENT AND MAINTENANCE RIGHTS AND OBLIGATIONS

Section 3.1 Golf Course Ordinance. During the Term of this Agreement, ADLC shall fully implement and comply with the Golf Course Ordinance. ADLC may propose amendments to the Golf Course Ordinance, as may be necessary from time to time, that are consistent with the requirements of this Agreement. ADLC shall provide AR with a copy of any such proposed amendment to the Golf Course Ordinance at the same time the notice of public hearing is provided to the public, and ADLC shall provide AR with an opportunity to review and comment on all such proposed amendments to the Golf Course Ordinance. ADLC shall give due consideration to any comments or input that AR provides before adopting any amendment to the Golf Course Ordinance. ADLC shall also promptly provide AR with a copy of all adopted amendments to the Golf Course Ordinance.

Section 3.2 Golf Course OM&M Activities. During the Term of this Agreement, ADLC shall cause all Golf Course OM&M Activities to be implemented and performed by a Golf Course Manager pursuant to the terms of a Golf Course Management Agreement. AR shall have the right, but not the obligation, to object to any proposed agreement to retain a Golf Course Manager or enter a Golf Course Management Agreement, on terms that are inconsistent with this Agreement. For Calendar Year 2019, or such longer period as is mutually agreed to by ADLC

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and AR, the existing contract between the Golf Course Authority and Troon Golf, LLC is deemed to satisfy the requirements for a Golf Course Management Agreement, acceptable to AR and ADLC, for the purposes of Article III of this Agreement. The obligations of ADLC and the Golf Course Manager under the Golf Course Management Agreement shall include the implementation and performance of all Golf Course OM&M Activities. All such Golf Course OM&M Activities shall be implemented and performed in a manner consistent with the requirements of this Agreement, the Golf Course O&M Plan, the Covenant Not to Sue Agreement, the ROD, the Golf Course Ordinance, the Golf Course Parcel Deed, Environmental Laws and/or other applicable federal and state laws.

Section 3.3 Termination of Golf Course Management Agreement and Replacement of Golf Course Manager. During the Term of this Agreement, ADLC shall have the obligation to terminate the Golf Course Management Agreement, in accordance with all terms and conditions of the Golf Course Management Agreement, including without limitation provisions relating to notice, opportunity to cure, remedy, and default, and replace the Golf Course Manager under the following conditions:

3.3.1 Upon any material failure by the Golf Course Manager to implement and perform the Golf Course OM&M Activities consistent with the requirements of Section 3.2 hereof;

3.3.2 Upon any material failure by the Golf Course Manager to implement and perform the Golf Course OM&M Activities in accordance with standards prevailing in the golf course industry at that time for the operation of a public golf course facility;

3.3.3 Discovery of a material error or omission during an audit of the Golf Course financial books and records or any misapplication of Golf Course revenues;

3.3.4 Failure to hire and maintain qualified personnel to implement and perform the Golf Course OM&M Activities;

3.3.5 Default in or breach of any material term or condition of the Golf Course Management Agreement;

3.3.6 The loss of the credentials specified in Section 1.1.35(i), (ii), or (iii) hereof;
or

3.3.7 Failure to implement and perform the Golf Course OM&M Activities within the constraints of any approved budget for the Golf Course.

From and after the Effective Date, ADLC hereby agrees to insert into each Golf Course Management Agreement entered into between ADLC and a Golf Course Manager a provision that provides ADLC with an express right to terminate the Golf Course Management Agreement for the reasons specified in Sections 3.3.1 through 3.3.7 above, subject to and in accordance with all terms and conditions of the Golf Course Management Agreement, including without limitation provisions relating to notice, opportunity to cure, remedy, and default.

Section 3.4 Routine Maintenance and Major Repairs and Replacements of Golf Course Remedial Features by AR. During the Term of this Agreement, AR shall implement and

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perform all Routine Maintenance of Golf Course Remedial Features and all Major Repairs and Replacements of Golf Course Remedial Features for which responsibility is assigned to AR pursuant to Parts III and IV of the Golf Course O&M Plan. All such Routine Maintenance of Golf Course Remedial Features and Major Repairs and Replacements of Golf Course Remedial Features shall be implemented and performed in a manner consistent with the requirements of this Agreement, the Golf Course O&M Plan, the ROD, the Access Agreement, Environmental Laws and/or other applicable federal and state laws.

Section 3.5 Routine Maintenance and Major Repairs and Replacements of Superfund Remedial Features by AR. During the Term of this Agreement, AR shall implement and perform all Routine Maintenance of Superfund Remedial Features and all Major Repairs and Replacements of Superfund Remedial Features required pursuant Parts III and IV of the Golf Course O&M Plan and in accordance with any schedules otherwise approved or established by EPA. All such Major Repairs and Replacements of Superfund Remedial Features (and corresponding Major Repairs and Replacements of Golf Course Remedial Features) shall be implemented and performed in a manner consistent with the requirements of this Agreement, the Golf Course O&M Plan, the ROD, the Access Agreement, Environmental Laws and/or other applicable federal and state laws.

Section 3.6 Hole 12 Golf Cart Path. During the Term of this Agreement, AR shall engage a golf course design firm to identify and recommend appropriate mitigations to the potential safety risk present on Hole 12. AR, in consultation with ADLC, shall then implement the mutually agreed upon mitigations recommended by the design firm. AR shall provide ADLC with reasonably detailed plans and specifications for the work and a reasonably detailed schedule for the commencement and completion of the work.

Section 3.7 Conveyance of Golf Course Water Rights. Within thirty (30) days after the Effective Date, AR shall cause AERL to convey the Golf Course Water Rights to ADLC by taking all actions reasonably necessary to effect the transfer, including without limitation executing and delivering the Golf Course Water Rights Quitclaim Deed to ADLC and an appropriate realty transfer certificate.

Section 3.8 Golf Course Slag Supply. During the Term of this Agreement, AR shall provide ADLC, upon request, up to 300 cubic yards per Calendar Year of slag from the Main Granulated Slag Pile of a size and texture suitable for use in the repair and maintenance of the formal and informal bunkers on the Golf Course. All requests for slag from ADLC shall be in writing and shall specify the quantity of slag to be delivered to ADLC. ADLC shall limit the frequency of its requests for slag to no more than one (1) request per Calendar Year. AR shall be solely responsible for excavating, hauling and delivering the slag requested by ADLC to a mutually agreed upon location at the Golf Course. AR will use reasonable efforts to deliver slag within thirty (30) days of receipt of a request for slag from ADLC. ADLC shall not use the slag provided by AR for any purpose other than the repair and maintenance of the formal and informal bunkers on the Golf Course without obtaining the prior written approval of AR. In the event EPA later requires in writing that the slag be removed from the Golf Course, AR shall, subject to its right to dispute EPA's determination, remove the slag from the Golf Course in accordance with EPA requirements, Environmental Laws and/or other applicable federal and state laws, and replace it with appropriate alternate golf course sand.

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Section 3.9 Consequential Damages. Neither Golf Course Authority nor ADLC shall have any claim in law or equity for any Golf Course OM&M Deficit, reduction or loss of Golf Course revenue, or other consequential damages based on AR's performance of any repair, replacement, or maintenance activities pursuant to Sections 3.4, 3.5 and 3.6 hereof, provided that AR performs such activities in a commercially reasonable manner.

ARTICLE IV GOLF COURSE OM&M FUNDING

Section 4.1 Establishment of Golf Course OM&M Trust Account. Within thirty (30) days after the Effective Date, ADLC shall establish the Golf Course OM&M Trust Account.

Section 4.2 Funding of Golf Course OM&M Trust Account. AR shall make payments to ADLC for deposit into the Golf Course OM&M Trust Account in the amounts and on the dates set forth below:

4.2.1 Calendar Year 2019 Budget and Funding. AR has approved the Golf Course OM&M Budget for Calendar Year 2019, which projects a Golf Course OM&M Deficit in the amount of \$236,263.00 (copy attached as Exhibit 4). Prior to the Effective, AR provided funding to ADLC and the Authority pursuant to the Golf Course MOU in the amount of \$230,000.00 to partially cover the projected Calendar year 2019 Golf Course OM&M Deficit. Within thirty (30) days after the Effective Date, AR shall provide additional funding to ADLC for deposit into the Golf Course OM&M Trust Account in the amount of \$6,263.00 to cover the remainder of the projected 2019 Calendar Year Golf Course OM&M Deficit. In the event there is an actual Calendar Year 2019 Golf Course OM&M Deficit, ADLC shall notify AR of the same in writing before February 17, 2020. Within thirty (30) days after AR's receipt of such notice, and subject to AR's right to inspection and audit under Section 4.7 hereof, AR shall remit payment to ADLC in an amount equal to the actual Calendar Year 2019 Golf Course OM&M Deficit, except that AR shall not be responsible for any portion of the Calendar Year 2019 Golf Course OM&M Deficit that results from ADLC's incurrence of Golf Course OM&M Expenses in an amount greater than the total expenses projected in the approved Calendar Year 2019 Golf Course OM&M Budget, unless ADLC requests approval for the increase in advance and AR grants its approval in advance and in writing, which approval shall not be unreasonably withheld.

4.2.2 Calendar Year 2020 Budget and Funding. No later than March 31, 2020, ADLC shall prepare and provide to AR a proposed Golf Course OM&M Budget for Calendar Year 2020. The Golf Course OM&M Budget for Calendar Year 2020 shall be in the form of the budget attached hereto as Exhibit 5 and shall, consistent with historic revenues and expenses, set forth all reasonably anticipated revenues and expenses associated with the implementation and performance of Golf Course OM&M Activities during Calendar Year 2020. The proposed Golf Course OM&M Budget for Calendar Year 2020 shall be subject to approval of AR, which approval shall not be unreasonably withheld by AR. On or before January 31, 2020, AR shall pay to ADLC, for deposit into the Golf Course OM&M Trust Account, the amount of Three Hundred Fifty Thousand and No/100ths Dollars (\$350,000.00). ADLC shall not incur any expense for Golf Course OM&M Activities during Calendar Year 2020 in excess of the total expenses set forth in the approved Golf Course OM&M Budget for Calendar Year 2020 without the prior approval of AR, which approval shall not be unreasonably withheld by AR. Subject to AR's right to inspection

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and audit under Section 4.7 hereof, in the event there is a Golf Course OM&M Deficit in excess of \$350,000 as a result of (i) ADLC's receipt of total revenues in an amount less than the total revenues projected in the approved Golf Course OM&M Budget for Calendar Year 2020 and/or (ii) AR's approval of ADLC's incurrence of total expenses in an amount greater than the total expenses projected in the approved Golf Course OM&M Budget for Calendar Year 2020, AR shall pay ADLC the amount by which the Golf Course OM&M Deficit exceeds \$350,000 within 60 days of AR's receipt of an appropriate accounting report for Calendar Year 2020 that details the Golf Course OM&M Deficit.

4.2.3 Calendar Years 2021 and 2022 Funding. On or by January 31, 2021 and January 31, 2022, AR shall pay to ADLC, for deposit into the Golf Course OM&M Trust Account, the amount of Three Hundred Fifty Thousand and No/100ths Dollars (\$350,000.00).

4.2.4 Calendar Years 2023 through 2044 Funding. On or by January 31 2023, and on or by January 31 of each subsequent Calendar Year during the Term of this Agreement through and including the 2044 Calendar Year, AR shall pay to ADLC, for deposit into the Golf Course OM&M Trust Account, the amount of Two Hundred Fifty Thousand and No/100ths Dollars (\$250,000.00).

Section 4.3 Adjustment of Payment Amounts. The amounts to be paid by AR to ADLC pursuant to Sections 4.2.3 and 4.2.4 hereof shall be adjusted prior to payment (increased or decreased as appropriate) in order to account for inflation or deflation, as the case may be, in an amount equal to the percentage difference between the CPI Base Figure and the CPI Adjustment Figure, as illustrated in the Funding Spreadsheet.

Section 4.4 Total AR Funding Obligation. AR shall not be responsible for paying any amount to ADLC in excess of the amounts set forth in Sections 4.2.3 and 4.2.4 to ADLC for Golf Course OM&M Expenses or other Golf Course-related expenses, if any, incurred by ADLC during Calendar Years 2021 through 2044, regardless of whether there is a Golf Course OM&M Deficit for any such Calendar Year.

Section 4.5 Authorized Uses of Golf Course OM&M Trust Account Funds. All funds paid to ADLC by AR for deposit into the Golf Course OM&M Trust Account pursuant to Section 4.2 hereof may be drawn upon and used by ADLC solely and exclusively for the payment of Golf Course OM&M Expenses. All Golf Course OM&M Costs Savings shall, at the discretion of ADLC, either be maintained in the Golf Course OM&M Trust Account and used for the payment of future Golf Course OM&M Expenses or transferred to the Golf Course Capital Trust Account. Except as provided in Section 8.10 hereof, the funds paid by AR to ADLC pursuant to Section 4.2 hereof may not be used by ADLC for any other purposes without the prior written approval of AR.

Section 4.6 Golf Course Reports. During the Term of this Agreement, ADLC shall provide copies of all reports generated for the Golf Course to AR. Such reports shall include, without limitation, all financial and accounting reports and all budgets and budget reports prepared by or on behalf of ADLC. Such reports shall be provided to AR as soon as reasonably possible after their receipt in final form by ADLC. Additionally, during the Term of this Agreement, ADLC shall prepare and provide a Golf Course OM&M Trust Account Accounting Report to AR within

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sixty (60) days after the end of each Calendar Year. AR shall have the right to review and comment on all such reports.

Section 4.7 Golf Course OM&M Trust Account Books of Record; Inspection and Audit. ADLC will keep, or cause to be kept, proper books of record separate from all other records, in which complete and correct entries shall be made of ADLC's transactions relating to the Golf Course OM&M Trust Account. Upon not less than ten (10) days' notice from AR to ADLC, such books of record shall be at all times during business hours subject to the inspection and audit of AR, at AR's expense.

Section 4.8 Forgiveness of Indebtedness. The Parties hereby acknowledge that the total indebtedness owed by Golf Course Authority and ADLC to AR as of the Effective Date pursuant to the Golf Course Loan Agreement and the Golf Course Promissory is the total principal amount of \$1,230,000.00, together with accrued interest thereon. From and after the Effective Date, Golf Course Authority and ADLC shall have no further obligation to make payment of any of the outstanding indebtedness owed to AR pursuant to the Golf Course Loan Agreement and the Golf Course Promissory Note, and AR shall have no further right to collect any of the indebtedness from Golf Course Authority or ADLC; and all such outstanding indebtedness shall henceforth be extinguished. This paragraph shall survive termination of this Agreement.

ARTICLE V GOLF COURSE CAPITAL FUNDING

Section 5.1 Establishment of Golf Course Capital Trust Account. Within thirty (30) days after the Effective Date, ADLC shall establish the Golf Course Capital Trust Account.

Section 5.2 Funding of Golf Course Capital Trust Account. Unless this Agreement is sooner terminated pursuant to Article VIII hereof, as illustrated in the Funding Spreadsheet, AR shall make payments to ADLC for deposit into the Golf Course Capital Trust Account in the amounts and on the dates set forth below:

5.2.1 On or before January 31, 2020, AR shall pay to ADLC, for deposit into the Golf Course Golf Course Capital Trust Account, the amount of One Million and No/100ths Dollars (\$1,000,000.00).

5.2.2 On or by January 31, 2021, AR shall pay to ADLC, for deposit into the Golf Course Capital Trust Account, the amount of Five Hundred Thousand and No/100ths Dollars (\$500,000.00).

5.2.3 On or by January 31, 2022, AR shall pay to ADLC, for deposit into the Golf Course Capital Trust Account, the amount of Five Hundred Thousand and No/100ths Dollars (\$500,000.00).

Section 5.3 Adjustment of Payment Amounts. The amount to be paid by AR to ADLC pursuant to Section 5.2.3 hereof shall be adjusted prior to payment (increased or decreased as appropriate) in order to account for inflation or deflation, as the case may be, in an amount equal to the percentage difference between the CPI Base Figure and the CPI Adjustment Figure, as illustrated in the Funding Spreadsheet.

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Section 5.4 Total AR Funding Obligation. AR shall not be responsible for paying any amount to ADLC in excess of the amounts set forth in Section 5.2 hereof for the payment of Golf Course Capital Expenses.

Section 5.5 Authorized Uses of Golf Course Capital Trust Account Funds. All funds paid to ADLC by AR for deposit into the Golf Course Capital Trust Account pursuant to Section 5.2 hereof and all Golf Course OM&M Cost Savings transferred into Golf Course Capital Trust Account pursuant to Section 4.5 hereof may be drawn upon and used by ADLC for the payment of Golf Course Capital Expenses. Golf Course Capital Trust Account funds may also be transferred by ADLC from the Golf Course Capital Trust Account to the Golf Course OM&M Trust Account to the limited extent necessary to cover any Golf Course OM&M Deficit, including any such deficit incurred as a result of Major Repairs or Replacements of Golf Course Remedial Features. Golf Course Capital Trust Account funds may not be used by ADLC for any other purposes without the prior written approval of AR.

Section 5.6 Golf Course Capital Trust Account Accounting Reports. During the Term of this Agreement, ADLC shall prepare and provide a Golf Course Capital Funds Accounting Report to AR within sixty (60) days after the end of each Calendar Year.

Section 5.7 Golf Course Capital Trust Account Books of Record; Inspection and Audit. ADLC will keep, or cause to be kept, proper books of record separate from all other records, in which complete and correct entries shall be made of ADLC's transactions relating to the Golf Course Capital Trust Account. Upon not less than ten (10) days' notice from AR to ADLC, such books of record shall be at all times during business hours subject to the inspection and audit of AR, at AR's expense. ADLC may invest funds held in the Golf Course Capital Trust Account in excess of the current and next Calendar Year's capital needs in a reasonably prudent manner, *provided* that ADLC shall be solely responsible for any resulting investment performance (gains or losses).

ARTICLE VI INSURANCE

Section 6.1 ADLC. During the Term of this Agreement, ADLC shall provide and continuously maintain in effect the types and amounts of insurance set forth in the ADLC Certificate of Insurance. The amounts of insurance required under this Section 6.1 shall be increased, as appropriate, in the event and to the extent that the limitations on ADLC's liability for damages in tort, as currently set forth in Mont. Code Ann. § 2-9-108, are increased.

Section 6.2 Golf Course Manager and Other Contractors. Unless otherwise agreed by the Parties in writing, during the Term of this Agreement, in the event ADLC uses a Golf Course Manager or one or more other contractors to perform activities provided for under Parts II, III, and IV of the Golf Course O&M Plan, ADLC shall require the Golf Course Manager and any such contractors to purchase and maintain in effect, at all times during their performance of the actions, the following minimum insurance with insurance companies having an A.M. Best Financial Strength Rating of A- or better and Financial Size Category of X (10) or better: (i) Workers' Compensation Insurance in compliance with all statutory limits; (ii) Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident; (iii) Commercial or General

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Liability Insurance, including coverage for premises and operations, contractual liability, completed operations, with limits as required by law or with a combined single limit of not less than \$1,000,000 per occurrence, whichever is greater; (iv) Automobile Liability Insurance (including owned, non-owned, and hired vehicles) with limits as required by law or with a combined single limit for bodily injury, death, and property damage of not less than \$1,000,000 per occurrence, whichever is greater, (v) Excess Liability Insurance with a combined single limit for bodily injury, death, and property damage of not less than \$2,000,000 per occurrence/annual aggregate above said employer's liability, commercial or general liability, and automobile liability insurance; and (vi) Professional Liability Insurance with limits of at least \$3,000,000 per claim and \$3,000,000 annual aggregate (if such insurance is appropriate taking into account the nature of the activities being performed by the contractor). ADLC hereby acknowledges that the insurance required under this Section 6.2 is based upon insurance available in the market as of the Effective Date and that the policy limits for such insurance are minimum amounts. The Parties shall meet and confer from time to time to determine whether additional or different types of insurance coverages should be required to reflect the current insurance market for similar activities and higher minimum limits to adjust for such factors as inflation and/or the nature and extent of the activities being performed.

Section 6.3 Additional Insurance Requirements. The following additional terms shall apply with respect to each of the policies of insurance required pursuant to Sections 6.1 and 6.2 hereof:

6.3.1 Except for Workers' Compensation Insurance, AR shall be named as an additional named insured in each of the policies, and the additional named insured endorsement shall state that coverage is afforded the additional named insured with respect to claims and occurrences arising out of the actions performed by or on behalf of ADLC, as applicable, pursuant to this Agreement. AR will be responsible for payment of any reasonable incremental costs charged by the insurer(s) for including AR as an additional named insured on such policies.

6.3.2 Upon request at any time, ADLC shall use all reasonable efforts to obtain and shall furnish certificates of insurance to AR evidencing the required insurance.

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

6.3.4 All certificates of insurance must contain references to endorsements of AR as an additional insured as required pursuant to this Section 6.3.

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

6.3.6 Upon request in the event of a claim against AR, ADLC shall use all reasonable efforts to obtain and shall furnish AR with copies of policies for the required insurance.

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ARTICLE VII INDEMNIFICATIONS AND RELEASES AND COVENANTS NOT TO SUE

Section 7.1 Indemnification of ADLC.

7.1.1 Scope of Indemnification of ADLC. Subject to the exceptions set forth in Sections 3.9 and 7.1.2 hereof, AR hereby agrees to defend, protect, indemnify, and hold harmless ADLC from any and all claims, causes of action, demands, damages, liabilities, losses, penalties, fines, costs and expenses (including attorneys' fees and other litigation expenses) arising or resulting from (i) AR's implementation and performance, or failure to implement and perform, any obligations required of AR pursuant to Sections 3.4 and 3.5 hereof, (ii) any exacerbation of or contribution to Preexisting Environmental Conditions on the Golf Course Parcel caused by AR or its contractors, or (iii) an enforcement action asserted or brought against ADLC by a Governmental Entity under Environmental Laws as a result of any Preexisting Environmental Conditions on the Golf Course.

7.1.2 Exceptions to Indemnification of ADLC. AR's agreement to indemnify ADLC pursuant to Section 7.1.1 hereof shall not apply to the extent that such claims, causes of action, demands, damages, liabilities, losses, penalties, fines, costs and expenses arise or result from (i) ADLC's implementation and performance, or material failure to implement and perform, any obligations required of ADLC pursuant to Section 3.2 hereof, (ii) any other activities or development on the Golf Course Parcel authorized or permitted by ADLC that are not implemented or performed consistent with the requirements of this Agreement, the Golf Course O&M Plan, the Covenant Not to Sue Agreement, the ROD, the Golf Course Ordinance, the Golf Course Parcel Deed, Environmental Laws and/or other applicable federal and state laws; (iii) any exacerbation of or contribution to Preexisting Environmental Conditions on the Golf Course Parcel caused by ADLC or any other Person or Governmental Entity other than AR or its contractors; (iv) any hindrance, interference, delay or failure to cooperate by ADLC with respect to AR's implementation and performance of the obligations required of AR pursuant to Sections 3.4 and 3.5 hereof, and/or (v) any negligent, reckless or willful misconduct on the part of ADLC, the Golf Course Manager or their respective contractors.

Section 7.2 Indemnification of AR.

7.2.1 Scope of Indemnity. Subject to the exceptions set forth in Section 7.2.2 hereof, ADLC hereby agrees to defend, protect, indemnify, and hold harmless AR from any and all claims, causes of action, demands, damages, liabilities, losses, penalties, fines, costs and expenses (including attorneys' fees and other litigation expenses) arising or resulting from (i) ADLC's implementation and performance, or failure to implement and perform, any obligations required of ADLC pursuant to Section 3.2 hereof, (ii) any other activities or development on the Golf Course Parcel authorized or permitted by ADLC that are not implemented or performed in accordance with the requirements of this Agreement, the Covenant Not to Sue Agreement, the ROD, the Golf Course Ordinance, the Golf Course Parcel Deed, Environmental Laws and/or other applicable federal and state laws, (iii) any exacerbation of or contribution to Preexisting Environmental Conditions on the Golf Course Parcel caused by ADLC, or (iv) any hindrance, interference, delay or failure to cooperate by ADLC with respect to AR's implementation and performance of any obligations required of AR pursuant to Sections 3.4 and 3.5 hereof.

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7.2.2 Indemnity Exceptions. ADLC's agreement to indemnify AR pursuant to Section 7.2.1 hereof shall not apply to the extent that such claims, causes of action, demands, damages, liabilities, losses, penalties, fines, costs and expenses arise or result from (i) AR's implementation and performance, or material failure to implement and perform, any obligations required of AR pursuant to Sections 3.4 and 3.5 hereof, (ii) any exacerbation of or contribution to Preexisting Environmental Conditions on the Golf Course Parcel caused by AR or its contractors, and/or (iii) any negligent, reckless or willful misconduct on the part of AR or its contractors.

Section 7.3 Integration and Ratification of Releases and Covenants Not to Sue. Except as otherwise provided in Section 7.3.1 below, the Releases and Covenants Not to Sue set forth in Section D of the Additional Provisions of the Golf Course Parcel Deed, as extended to the Reconfigured Golf Course Parcel pursuant to the Parcel Reconfiguration Agreement, are hereby incorporated by this reference in their entirety as terms and conditions of this Agreement and are hereby fully ratified and confirmed by ADLC; provided that such incorporation shall not affect either Party's ability to enforce this Agreement.

7.3.1 ADLC Reservation of Rights with Respect to Third-Party Claims. ADLC and AR hereby agree that the Releases and Covenants Not to Sue set forth in Section D of the Additional Provisions of the Golf Course Parcel Deed, as extended to the Reconfigured Golf Course Parcel pursuant to the Parcel Reconfiguration Agreement, shall not preclude ADLC from asserting a claim against AR for indemnity or contribution under Montana law or CERCLA if all of the following conditions are met:

(i) The claim against AR arises from an alleged injury or damage to a parcel or parcels of real property other than the Golf Course Parcel;

(ii) The claim against AR arises from a claim asserted in litigation against ADLC by a person or entity unrelated to and not in privity with ADLC ("third-party litigation");

(iii) The alleged injury or damage asserted in such third-party litigation does not arise from ADLC's implementation and performance, or ADLC's material failure to implement and perform, any duty or obligations required of ADLC under this Agreement, including, without limitation, Section 3.2; and

(iv) The alleged injury or damage asserted in such third-party litigation arises from the exacerbation of or contribution to Preexisting Environmental Conditions caused by an act of God or a Person other than AR, ADLC, or their respective contractors.

7.3.2 AR Reservation of Rights with Respect to Third-Party Claims. AR reserves, and this Agreement is without prejudice to, all rights and defenses available to AR under applicable law with respect to any claim asserted by ADLC against AR pursuant to Section 7.3.1. Nothing in this Agreement shall be deemed to create an admission or presumption of AR's liability in any litigation or with respect to any claim addressed by Section 7.3.1, nor shall any of the terms of this Agreement be admissible in such litigation or with respect to such claims to prove the validity or amount of any disputed claim.

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ARTICLE VIII DEFAULT/REMEDIES/TERMINATION

Section 8.1 ADLC Default. In the event that ADLC materially fails to perform any duty or obligation that it is required to perform under this Agreement during the Term of this Agreement, then AR may at any time provide ADLC with a written notice that identifies that material failure and requests that the material failure be corrected. Upon receipt of a notice of default from AR, ADLC shall correct the identified material failure within thirty (30) days, unless a longer period of time is reasonably needed to correct the material failure and ADLC begins corrective action within thirty (30) days or a longer period of time is agreed to by ADLC and AR in writing, and ADLC diligently pursues the corrective action to completion. In the event ADLC does not correct the identified material failures within the time allowed under the preceding sentence, an ADLC Default shall occur and AR shall have the right to proceed in accordance the terms of Section 8.3 hereof.

Section 8.2 AR Default. In the event that AR materially fails to perform any duty or obligation that it is required to perform under this Agreement during the Term of this Agreement, then ADLC may at any time provide AR with a written notice that identifies that material failure and requests that the material failure be corrected. Upon receipt of a notice of default from ADLC, AR shall correct the identified material failure within thirty (30) days, unless a longer period of time is reasonably needed to correct the material failure and AR begins corrective action within thirty (30) days or a longer period of time is agreed to by ADLC and AR in writing, and AR diligently pursues the corrective action to completion. In the event AR does not correct the identified material failures within the time allowed under the preceding sentence, an AR Default shall occur and ADLC shall have the right to proceed in accordance the terms of Section 8.4 hereof.

Section 8.3 AR Elections for ADLC Default. In the event an ADLC Default occurs, AR, at its election, shall have the right and option to (i) proceed with mediation and, if necessary, arbitration pursuant to Sections 8.5 and 8.6, and/or (ii) terminate this Agreement pursuant to Section 8.7.1 hereof. Prior to proceeding with any of the remedies available to AR, AR shall provide ADLC with notice of the remedies which AR intends to elect; *provided, however*, such election notice shall not preclude or limit the subsequent election of any other remedy of AR hereunder. The election notice shall, at a minimum, (i) refer to this Agreement, (ii) set forth a description of the ADLC Default, (iii) specify the remedy that AR has elected and (iv) include such additional information as may be required pursuant to Section 8.7.1 hereof, as applicable. In the event that ADLC disputes the occurrence of the ADLC Default, ADLC shall provide written notice of the dispute to AR within fourteen (14) days of receipt of any election notice from AR pursuant to this Section 8.3 hereof. In the event the occurrence of the ADLC Default is so disputed by ADLC, AR and ADLC shall proceed with mediation and, if necessary, arbitration pursuant to Sections 8.5 and 8.6 hereof.

Section 8.4 ADLC Elections for AR Default. In the event an AR Default occurs, ADLC, at its election, shall have the right and option to (i) proceed with mediation and, if necessary, arbitration pursuant to Sections 8.5 and 8.6 hereof and/or (ii) terminate this Agreement pursuant to Section 8.7.2 hereof. Prior to proceeding with any of the remedies available to ADLC, ADLC shall provide AR with written notice of the remedies which ADLC intends to elect; *provided, however*, such notice shall not preclude or limit the subsequent election of any other

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remedy of ADLC hereunder. The election notice shall, at a minimum, (i) refer to this Agreement, (ii) set forth a description of the AR Default, (iii) specify the remedy or remedies that ADLC has elected and (iv) include such additional information as may be required pursuant to Section 8.7.2 hereof, as applicable. In the event that AR disputes the occurrence of the AR Default, AR shall provide written notice of the dispute to ADLC within ten (10) days of receipt of any election notice from ADLC pursuant to this Section 8.4. In the event the occurrence of the AR Default is so disputed by AR, AR and ADLC shall proceed with mediation and, if necessary, arbitration pursuant to Sections 8.5 and 8.6 hereof.

Section 8.5 Mediation. In the event AR or ADLC elects to proceed with mediation and, if necessary, arbitration pursuant to the terms of this Agreement, then, within thirty (30) days after the effective date of any election notice, ADLC and AR shall each shall designate a senior-level representative, who shall collectively endeavor in good faith to resolve the Default or other dispute on a reasonable basis. Upon agreement of AR and ADLC, a mediator with expertise in the subject matter may be selected to assist in this process. The costs and fees of the mediator shall be shared equally by AR and ADLC. In the event a Default or other dispute is not resolved within sixty (60) days (or such longer time as may be agreed to by AR and ADLC) after the effective date of any notice of intent to proceed with mediation and, if necessary, arbitration, AR and ADLC shall proceed with arbitration pursuant to Section 8.6 hereof. An election by AR and ADLC to proceed with mediation and, if necessary, arbitration shall not serve to delay or stay AR's and ADLC's timely performance of their respective duties and obligations under this Agreement.

Section 8.6 Arbitration. Defaults and other disputes not resolved by AR and ADLC pursuant to the mediation provisions of Section 8.5 hereof will be resolved by arbitration pursuant to the following terms:

8.6.1 The Party initiating the arbitration shall give written notice to the other Party.

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

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

8.6.4 AR and ADLC shall cooperate with the arbitrator to permit the scheduling of a hearing so as to complete any such arbitration within one hundred twenty (120) days of commencement, unless the Parties' mutually agree to a longer period or the arbitrator determines for good cause that a longer period is required. AR and ADLC shall have no less than forty-five (45) days' notice prior to the commencement of any hearing.

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

8.6.6 Except as otherwise provided in this Section 8.6, the arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. 1-16, to the exclusion of any provision of State law inconsistent therewith, and judgment upon the award rendered by the single arbitrator may be entered by any court having jurisdiction thereof.

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

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

8.6.9 In the event the occurrence or continuation of a Default is disputed by AR or ADLC, the arbitrator is specifically authorized to resolve the dispute. Any decision of the arbitrator relating to the occurrence or non-occurrence of a Default shall contain specific findings of fact and conclusions of law on which the decision is based and AR and ADLC shall have the right to appeal all issues of law to any court having jurisdiction. A Party electing to appeal the decision of the arbitrator must file a notice of appeal within twenty (20) days following the date of the arbitrator's decision. In the event of such an appeal, the decision of the arbitrator shall not be considered final for purposes of this Agreement until twenty (20) days after the court's decision or judgment is deemed to be final in accordance with the applicable rules of procedure.

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

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

Section 8.7 Termination upon ADLC or AR Default.

8.7.1 ADLC Default. Subject to the post-termination/expiration rights and obligations of AR and ADLC under Article X hereof, in the event an ADLC Default occurs during the Term of this Agreement, AR shall have the right to elect to terminate this Agreement by providing ADLC with the AR election of remedies notice required pursuant to Section 8.3 hereof, which shall include an effective date for the termination which shall be at least sixty (60) or more days after the election notice is transmitted to ADLC. In the event the occurrence of the ADLC Default is disputed by ADLC pursuant to Section 8.3 hereof, the termination date shall be delayed unless and until a final decision by the arbitrator is issued that contains specific findings of fact which confirm the occurrence of the ADLC Default.

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8.7.2 AR Default. Subject to the post-termination/expiration rights and obligations of AR and ADLC under Article X hereof, in the event an AR Default occurs during the term of this Agreement, ADLC shall have the right to elect to terminate this Agreement by providing AR with the election notice required pursuant to Section 8.4 hereof, which shall include an effective date for the termination which shall be at least sixty (60) or more days after the election notice is transmitted to AR. In the event the occurrence of the AR Default is disputed by AR pursuant to Section 8.4 hereof, the termination date shall be delayed unless and until a final decision is issued by the arbitrator that contains specific findings of fact which confirm the occurrence of the AR Default.

Section 8.8 Termination upon ADLC Election. Subject to the post-termination/expiration rights and obligations of AR and ADLC under Article X hereof, in the event ADLC determines that it no longer wishes to perform the obligations required pursuant to Section 3.2 hereof after December 31, 2020, ADLC shall have the right to elect to terminate this Agreement at any time prior to the expiration of the Term of this Agreement. In the event ADLC elects to exercise its right under this Section 8.8, ADLC shall provide AR with an election notice which shall, at a minimum, (i) refer to this Agreement, and (ii) specify an effective date for the termination which shall be at least thirty (30) days or more after the election notice is transmitted to AR.

Section 8.9 Termination upon AR Election. Subject to the post-termination/expiration rights and obligations of AR and ADLC under Article X hereof, in the event the Consent Decree is not executed by AR, EPA and the State and approved and entered as a final judgment by the Court on or before December 31, 2020, AR shall have the right to elect to terminate this Agreement. In the event AR elects to exercise its right under this Section 8.9, AR shall provide ADLC with an election notice which shall, at a minimum, (i) refer to this Agreement, and (ii) specify an effective date for the termination which shall be at least thirty (30) days or more after the election notice is transmitted to AR.

Section 8.10 Transfer of Funds upon Termination. In the event this Agreement is terminated pursuant to Sections 8.7, 8.8 or 8.9 hereof, all funds remaining in the Golf Course OM&M Trust Account and the Golf Course Capital Trust Account as of the effective date of the termination, including all accrued interest and income earned thereon, shall be transferred by ADLC to the Community Amenities Trust Account within ten (10) days of ADLC's establishment of the Community Amenities Trust Account pursuant to Section 10.6 hereof.

Section 8.11 Agreement to Pay Fees and Expenses. In the event a non-defaulting Party should employ attorneys, experts, or other professionals or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting Party, the defaulting Party agrees that it will on demand therefore pay to the non-defaulting Party the reasonable fees of such attorneys, experts, or other professionals and such other costs and expenses reasonably so incurred by the non-defaulting Party as a result of a material default.

Section 8.12 No Additional Waiver Implied by One Waiver. In the event any Default is waived, such waiver shall be limited to the particular Default so waived and shall not be deemed to waive any other Default hereunder.

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Section 8.13 Force Majeure. The provisions of this Article VIII are subject to the following limitation: if by reason of Force Majeure a Party is unable in whole or in part to carry out its duties or obligations under this Agreement, such Party shall not be deemed in Default during the continuance of such inability; *provided* that (i) such Party notifies the other Party in writing that a Force Majeure event has occurred and such event is inhibiting the Party's ability to perform, (ii) such Party's inability to perform is of no greater scope and of no greater duration than is required by the Force Majeure, (iii) such Party uses its best efforts to remedy its inability to carry out all or any part of its obligations and keeps the other Party fully informed as to such efforts, and (iv) the Force Majeure was not caused or aggravated by any negligent or intentional acts, errors or omissions of such Party or any failure by such Party to comply with any applicable law. In the event that a Party disputes the occurrence of a Force Majeure, such Party shall provide written notice to the Party claiming a Force Majeure, as applicable, within ten (10) days of receipt of any notice of a Force Majeure pursuant to this Section 8.13. In the event a Force Majeure is so disputed, the parties shall proceed with mediation and, if necessary, arbitration pursuant to Sections 8.5 and 8.6 hereof.

Section 8.14 Consequential Damages. In the event this Agreement is terminated pursuant to Sections 8.7, 8.8 or 8.9 hereof, AR and ADLC shall have no claim in law or equity for damages or compensation of any kind (including, without limitation, compensatory damages and punitive damages) for, or based on such termination.

ARTICLE IX TERM

Section 9.1 Term of Agreement. Subject to the rights of AR and ADLC to terminate this Agreement pursuant to Article VIII hereof and subject to the post-termination/expiration rights and obligations of AR and ADLC under Article X hereof, the term of this Agreement shall commence on the Effective Date and shall continue in effect until December 31, 2044. AR shall have no obligation to provide funding to ADLC for Golf Course OM&M Activities or any other expenses relating to the operation, management and maintenance of the Golf Course after the expiration of the Term of this Agreement, unless AR and ADLC enter a written agreement providing for such funding under Section 9.2 of this Agreement.

Section 9.2 Meet and Confer Regarding Golf Course Viability. Unless this Agreement is terminated sooner pursuant to Article VIII hereof, by December 31, 2043 AR and ADLC shall meet and confer to evaluate the continued financial viability of the Golf Course following the expiration of the Term of this Agreement. During such meeting and conference each party shall have the right, but no obligation, to make proposals concerning the continued operation, management and maintenance of the Golf Course after the expiration of the Term of this Agreement based on the relevant circumstances that exist at the time. In the event AR and ADLC reach an agreement concerning the continued operation, management and maintenance of the Golf Course as a result of the meeting and conference, the terms of the agreement so reached will govern the operation, management and maintenance of the Golf Course following the expiration of the Term of this Agreement. In the event AR and ADLC are unable to reach agreement concerning the continued operation, management and maintenance of the Golf Course as a result of the meeting and conference, the terms of Article X shall apply after the expiration of the Term of this Agreement.

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ARTICLE X POST-TERMINATION/EXPIRATION RIGHTS AND OBLIGATIONS

Section 10.1 ADLC Options to Continue to Operate, Convey or Convert the Golf Course. In the event this Agreement is terminated by AR or ADLC pursuant to Article VIII hereof or the Term of this Agreement expires pursuant to Article IX hereof, ADLC, at its election, shall thereafter have the right and option to (i) continue to operate, manage and maintain the Golf Course as a public golf course pursuant to Section 10.2 hereof without any additional funding from AR, (ii) convey the Golf Course to AR pursuant to Section 10.3 hereof, or (iii) cause the Golf Course to be converted to an alternative open space/recreational use that protects and is consistent with waste containment remedy set forth in the ROD pursuant to Section 10.5 hereof. In the event ADLC elects to convey the Golf Course to AR pursuant to Section 10.3 hereof, ADLC shall provide AR with an election notice. Such election notice shall (i) refer to this Agreement, and (ii) specify the date upon which the conveyance shall be made which shall be at least thirty (30) days and no more than ninety (90) more after the election notice is transmitted to AR. In the event ADLC elects to cause the conversion of the Golf Course pursuant to Section 10.5 hereof, ADLC shall provide AR with an election notice. Such election notice shall (i) refer to this Agreement, (ii) include a reasonably detailed description of ADLC's proposed alternative open space/recreational use that protects and is consistent with waste containment remedy set forth in the ROD, and (iii) a reasonably detailed description of the new community amenities that will be procured, installed, constructed, operated and/or maintained by ADLC on the Golf Course Parcel.

Section 10.2 Continued Operation, Management and Maintenance of Golf Course. In the event ADLC elects to exercise its right to continue to operate, manage and maintain the Golf Course as a public golf course pursuant to Section 10.1 hereof, the obligations of AR with respect to Routine Maintenance of Superfund Remedial Features pursuant to Part III of the Golf Course O&M Plan and Major Repairs and Replacements of Superfund Remedial Features pursuant to Part IV of the Golf Course O&M Plan shall survive the termination of this Agreement pursuant to Article VIII hereof and the expiration of the Term of this Agreement pursuant to Article IX hereof and shall continue for so long as ADLC continues to operate, manage and maintain the Golf Course as a public golf course.

Section 10.3 Conveyance of Golf Course. In the event ADLC elects to exercise its right to convey the Golf Course pursuant to Section 10.1 hereof, then, on the date specified in the election notice, ADLC shall convey to AR or its designee, at no cost to either, all of ADLC's rights, title and interest in and to the Golf Course Parcel (including the Golf Course and the Golf Course Water Rights) by executing and delivering an appropriate quitclaim deed to AR or its designee. On the date specified in the election notice, ADLC shall also convey to AR or its designee, at no cost to either, all of ADLC's rights, title and interests in and to all equipment, machinery, inventory, tools, licenses, records and other items of personal property used, owned or controlled by ADLC in connection with the operation, management and maintenance of the Golf Course by executing and delivering an appropriate bill of sale or other appropriate conveyance instrument to AR or its designee. ADLC shall also execute any other documents reasonably requested by AR to fully consummate the conveyances contemplated under this Section 10.3.

Section 10.4 AR Option to Operate or Convert the Golf Course. In the event the Golf Course is conveyed to AR or its designee pursuant to Section 10.3 hereof, AR, at its election, shall

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thereafter have the right and option to (i) cause the Golf Course to continue to be operated, managed and maintained as a public golf course, or (ii) convert the Golf Course to an alternative open space/recreational use that protects and is consistent with waste containment remedy set forth in the ROD pursuant to Section 10.5 hereof. In the event AR elects to convert the Golf Course pursuant to Section 10.5 hereof, AR shall provide ADLC with an election notice. The election notice shall, at a minimum, (i) refer to this Agreement, and (ii) include a reasonably detailed description of AR's proposed alternative use consistent with Section 10.5 hereof.

Section 10.5 Conversion of Golf Course. In the event a conversion election is made by ADLC pursuant to Section 10.1 hereof or by AR pursuant to Section 10.4 hereof, AR, with input from ADLC, shall promptly prepare a Conversion Plan that identifies the actions required pursuant to the waste containment remedy set forth in the ROD to accommodate the conversion of the Golf Course to the alternative open space/recreational use proposed by ADLC pursuant to Section 10.1 or by AR pursuant to Section 10.4 hereof, which will involve capping exposed waste material on the Golf Course Parcel, riprap improvements to the Warm Springs Creek corridor, and other measures identified in the Consent Decree that are necessary to ensure the protectiveness of the existing remedy under CERCLA Section 121, 42 USC § 9621. AR shall give due consideration to any comments or input that ADLC provides before submitting the Conversion Plan to EPA. The Conversion Plan shall be submitted by AR to EPA for approval prior to implementation. Following EPA's approval, AR, at AR's expense, shall implement the Conversion Plan pursuant to the schedules set forth in the Conversion Plan or otherwise established by EPA.

Section 10.6 Establishment of Community Amenities Trust Account. Unless and to the extent otherwise agreed by AR and ADLC pursuant to Section 10.10 hereof, within ten (10) days of the earlier of (i) the date of EPA's approval of the Conversion Plan pursuant to Section 10.5 hereof, or (ii) the date of any pre-payment election notice by AR pursuant to Section 10.8 hereof, ADLC shall establish the Community Amenities Trust Account.

Section 10.7 Funding of Community Amenities Trust Account. Unless and to the extent otherwise agreed by AR and ADLC pursuant to Section 10.10 hereof, within thirty (30) days after ADLC's establishment of the Community Amenities Trust Account, AR shall provide funds to ADLC for deposit into the Community Amenities Trust Account in the amount of Two Million and No/100ths Dollars (\$2,000,000.00), which amount shall, prior to payment, be adjusted (increased or decreased as appropriate) in order to account for inflation or deflation, as the case may be, in an amount equal to the percentage difference between the CPI Base Figure and the CPI Adjustment Figure, as illustrated in the Funding Spreadsheet.

Section 10.8 AR Option to Pre-Pay Community Amenities Funds. AR, at its election, shall have the right and option to pre-pay, either in whole or in part, the funds to be deposited into the Community Amenities Trust Account pursuant to Section 10.7 hereof at any time, without premium or penalty. In the event AR elects to pre-pay the funds to be deposited into the Community Amenities Trust Account pursuant to this Section 10.8, AR shall provide ADLC with an election notice. The election notice shall, at a minimum, (i) refer to this Agreement, (ii) specify the amount that will be pre-paid by AR, and (iii) specify the anticipated date on which the payment will be made.

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Section 10.9 Authorized Uses of Community Amenities Trust Account Funds upon ADLC Conversion Election. In the event the Golf Course is converted to an alternative open space/recreational use as a result of ADLC's election to convert made pursuant to Section 10.1 hereof, all funds paid to ADLC by AR for deposit into the Community Amenities Trust Account pursuant to Section 10.7 hereof and all funds transferred by ADLC to the Community Amenities Trust Account pursuant to Section 8.10 hereof may be drawn upon and used by ADLC solely and exclusively for the payment of expenses reasonably incurred by ADLC to procure, construct, operate and/or maintain new community amenities on the Golf Course Parcel.

Section 10.10 Authorized Uses of Community Amenities Trust Account Funds upon AR Conversion Election. In the event the Golf Course is converted to an alternative open space/recreational use as a result of AR's election to convert made pursuant to Section 10.4 hereof, AR and ADLC shall meet and confer within sixty (60) days after the date of AR's election notice to consider whether and to what extent the funds to be deposited into the Community Amenities Trust Account should be used for the payment of expenses to procure, construct, operate and/or maintain new community amenities on the Golf Course Parcel. In the event and to the extent that AR and ADLC reach an agreement concerning the use of such funds for the procurement, construction, operation and/or maintenance of new community amenities on the Golf Course Parcel as a result of the meeting and conference, the terms of the agreement so reached will govern. In the event and to the extent AR and ADLC are unable to reach agreement concerning the use of such funds for the procurement, construction, operation and/or maintenance of new community amenities on the Golf Course Parcel as a result of the meeting and conference, ADLC shall be authorized to use the funds deposited into the Community Amenities Trust Account for the payment of expenses reasonably incurred by ADLC to procure, construct, operate and/or maintain new community amenities on one or more parcels of real property other than the Golf Course Parcel that are available to ADLC for such purposes.

Section 10.11 Community Amenities Trust Account Accounting Reports. From and after the establishment of the Community Amenities Trust Account pursuant to Section 10.6 hereof and continuing until one Calendar Year after all funds deposited into the Community Amenities Trust Account have been expended for purposes authorized under Sections 10.9 or 10.10 hereof, as applicable, ADLC shall prepare and provide a Community Amenities Trust Account Accounting Report to AR within ninety (90) days after the end of each Calendar Year.

Section 10.12 Community Amenities Trust Account Books of Record; Inspection and Audit. ADLC will keep, or cause to be kept, proper books of record separate from all other records, in which complete and correct entries shall be made of ADLC's transactions relating to the Community Amenities Trust Account. Upon not less than ten (10) days' notice from AR to ADLC, such books of record shall be at all times during business hours subject to the inspection and audit of AR, at AR's expense.

Section 10.13 Dispute Resolution. In the event any dispute or other disagreement arises with respect to the terms of this Article X, either ADLC or AR, at their election, may pursue mediation and, if necessary, arbitration pursuant to Sections 8.5 and 8.6 hereof in order to resolve the dispute or disagreements.

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ARTICLE XI MISCELLANEOUS PROVISIONS

Section 11.1 Notices and Submissions. Whenever, under the terms of this Agreement, written notice is required to be given, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the Parties in writing. All notices, submissions, requests, demands for payment, instructions, or other documents to be given hereunder shall be in writing and shall be given by delivery in person, by e-mail transmission, or other standard forms of written communications, by overnight courier or by registered or certified mail, postage prepaid, and shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Agreement.

IF TO AR: Atlantic Richfield Company
317 Anaconda Road
Butte, Montana 59701
Attn: Loren Burmeister (or successor)
E-mail: Cord.Harris@bp.com

WITH A COPY TO: Atlantic Richfield Company Legal Dept.
Jean Martin, Esq. (or successor)
501 Westlake Park Blvd
Houston, Texas 77079
E-mail: Jean.Martin@bp.com

IF TO ADLC: Anaconda-Deer Lodge County
800 Main Street
Anaconda, Montana 59711
Attn: Chief Executive

WITH A COPY TO: Anaconda-Deer Lodge County
800 Main Street
Anaconda, Montana 59711
Attn: County Attorney

IF TO GOLF COURSE
AUTHORITY: Old Works Golf Course, Inc.
1200 Pizzini Dr.
Anaconda, Montana 59711
Attention: President

Section 11.2 Captions. The titles or captions of the provisions of this Agreement are merely for convenience or reference and are not representations of matters included or excluded from such provisions.

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Section 11.3 Coordination with other Agreements. From and after the Effective Date, the Golf Course MOU, the Slag Supply Agreement and the terms and provisions of the Conveyance Agreement and the Reimbursement Agreement insofar as they relate or refer to the Golf Course and/or the Golf Course Parcel shall be deemed terminated and shall have no further force or effect. Golf Course Authority shall transfer all funds paid by AR to Golf Course Authority pursuant to the Golf Course MOU that have not yet been expended by Golf Course Authority for the purposes authorized under the Golf Course MOU as of the Effective Date to the Golf Course OM&M Trust Account within ten (10) days of ADLC's establishment of the Golf Course OM&M Trust Account. The Access Agreement and the Golf Course Parcel Deed shall remain in full force and effect and shall not be deemed to be altered or amended in any way by this Agreement.

Section 11.4 Entire Agreement. Except as otherwise provided in Section 11.3 hereof, this Agreement and all exhibits hereto shall constitute the entire Agreement and understanding between and among the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. The Parties expressly acknowledge and agree that, with regard to the subject matter of this Agreement and the transactions contemplated herein, (a) there are no oral agreements between the Parties and (b) this Agreement, including the recitals and all exhibits attached hereto, (i) embodies the final and complete agreement between the Parties, (ii) supersedes all prior and contemporaneous negotiations, offers, proposals, agreements, commitments, promises, acts, conduct, course of dealing, representations, statements, assurances and understandings, whether oral or written, and (iii) may not be varied or contradicted by evidence of any such prior or contemporaneous matter or by evidence of any subsequent oral agreement of the Parties.

Section 11.5 Action for Injunction for Intentional, Deliberate or Willful Violations of the ROD. Notwithstanding any other term or provision of this Agreement, AR hereby expressly reserves the right to commence an action for injunctive relief against ADLC and any other Person or Governmental Entity for any intentional, deliberate or willful violation of the requirements of the ROD. In the event such an action is commenced by AR against ADLC, ADLC hereby consents to the jurisdiction of the United States District Court for the District of Montana over that action.

Section 11.6 Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by the Parties, the Parties shall perform, execute and/or deliver or cause to be performed, executed and/or delivered any and all other acts or deeds necessary to complete the work and/or the transactions contemplated herein.

Section 11.7 Negation of Agency Relationship. This Agreement shall not be construed to create, either expressly or by implication, the relationship of agency or partnership between the Parties. Neither Party (including such Party's agents, employees or contractors) is authorized to act on behalf of the other Party in any manner relating to the subject matter of this Agreement. Neither Party shall be liable for the acts, errors or omissions of the officers, agents, employees or contractors of the other Party entered into, committed or performed with respect to or in the performance of this Agreement.

Section 11.8 Exhibits. All exhibits attached to this Agreement are hereby incorporated into and made part of this Agreement. In the event the description set forth in the body of this

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Agreement of the terms and conditions of any document conflicts with the provisions of the actual document attached as an exhibit, the provisions of this Agreement shall control.

Section 11.9 No Admission of Liability. The Parties do not admit any liability arising out of the transactions or occurrences, exhibits, index or any other record documents attached hereto or incorporated by reference. The Parties do not admit and retain the right to dispute and contest any of the factual or legal statements made in any pleadings or other documents. This Agreement, any factual or legal statements made in this Agreement, and the resulting obligations of the Parties shall not be admissible in any judicial or administrative proceeding against any of the Parties, over their objection, as evidence of liability or as an admission of any factual or legal statements made herein, but it shall be admissible in an action to enforce this Agreement.

Section 11.10 General Reservations. Nothing in this Agreement shall restrict or limit in any way any cause of action or other rights, whether contingent or absolute, matured or unmatured, determined or undetermined or known or unknown as of the Effective Date, that AR may have against any Person or Governmental Entity including, without limitation, any cause of action for contribution or indemnity against any Person or Government Entity for reimbursement of the considerations incurred or to be incurred by AR pursuant to this Agreement.

Section 11.11 Binding Effect; Assignment. The rights and obligations set forth in this Agreement shall be binding on the Parties hereto and their successors and assigns. AR may assign and/or delegate any of its rights and obligations under this Agreement at any time. No assignment or delegation of any right or obligation hereunder by ADLC, whether accruing prior to or after such assignment or delegation, will release ADLC from any liability or obligation under this Agreement without the prior written consent of AR, which consent shall not be unreasonably withheld. No assignment or other transfer by ADLC of its rights or obligations hereunder shall be effective unless and until (i) written notice thereof has been given to AR, (ii) the transferee or assignee has executed and delivered to AR a binding written agreement to perform all obligations assigned or transferred, and (iii) AR has agreed in its sole discretion and in writing to the assignment or other transfer of rights or obligations. Any attempted assignment or transfer of rights or obligations by ADLC which fails to comply with the foregoing requirements will be ineffective and void.

Section 11.12 Modification. This Agreement, and the rights and the obligations of the Parties hereunder, may only be amended, altered, modified, or waived by a written agreement executed by the Parties hereto.

Section 11.13 No Third-Party Beneficiaries. Except as expressly provided in this Agreement, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person or Governmental Entity (including any other potentially responsible party within the Anaconda Smelter NPL site) other than the Parties any rights (including without limitation any right of reimbursement or indemnification), benefits, or remedies of any nature whatsoever under or by reason of this Agreement.

Section 11.14 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of Montana applicable to agreements made and to be performed wholly within such jurisdiction.

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Section 11.15 Counterparts. This Agreement may be executed in one or more counterpart, each of which shall for all purposes be deemed to be an original and all of which together shall constitute the same instrument.

Section 11.16 Severability. In the event any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof, or of such provision in other respects, shall not be affected thereby.

Section 11.17 Integration of Recitals. All of the recitals to this Agreement are incorporated by this reference in their entirety as terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the ____ day of _____, 2019.

ATLANTIC RICHFIELD COMPANY

By: _____
Its _____

Attest: _____
Its _____

Date: _____

ANACONDA-DEER LODGE COUNTY

By: _____
Chief Executive

Attest: _____
County Clerk and Recorder

Date: _____

OLD WORKS GOLF COURSE, INC.

By: _____
President

Date: _____

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Exhibit 1

(ADLC Certificate of Insurance)

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Exhibit 2

(Funding Spreadsheet)

PUBLIC COMMENT DRAFT

Exhibit 3

(Old Works Golf Course Operations and Maintenance Plan)

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Exhibit 4

(Golf Course OM&M Budget for Calendar Year 2019)

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Exhibit 5

(Golf Course OM&M Budget Form for Calendar Year 2020)

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Exhibit 6

(Reconfigured Golf Course Parcel Certificate of Survey)

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Exhibit 7

(1994 Golf Course Parcel Deed)

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Exhibit 8

(2002 Modification of Restrictive Covenants and Related Deed Provisions)

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Exhibit 9

(2019 Parcel Reconfiguration Agreement)

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Exhibit 10

(Golf Course Water Rights Quitclaim Deed)