

UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

|                                      |   |                   |
|--------------------------------------|---|-------------------|
|                                      | : | OSHRC Docket Nos. |
| THOMAS E. PEREZ, SECRETARY OF LABOR, | : | 13-1562; 13-1897; |
| UNITED STATES DEPARTMENT OF LABOR,   | : | 14-0514; 14-0515  |
|                                      | : |                   |
| Complainant,                         | : | Inspection Nos.   |
|                                      | : | 942971; 942968;   |
|                                      | : | 942967; 942545;   |
| v.                                   | : | 943172; 944135;   |
|                                      | : | 942416; 943081    |
| REPUBLIC STEEL,                      | : | 912917; 891561;   |
| successors, and assigns,             | : | 941037; 941464    |
|                                      | : |                   |
| Republic Steel.                      | : |                   |
|                                      | : |                   |
| United Steel, Paper and Forestry,    | : |                   |
| Rubber, Manufacturing, Energy        | : |                   |
| Allied Industrial and Service        | : |                   |
| Workers International Union.         | : |                   |
|                                      | : |                   |
| Authorized Employee Representative.  | : |                   |

**STIPULATION AND AGREEMENT**

**I.**

**Scope and Intent of Agreement**

A. The Parties. Complainant, Thomas E. Perez, Secretary of Labor, United States Department of Labor, through the Occupational Safety and Health Administration ("OSHA"); Republic Steel, its successors and assigns ("Republic Steel"); and the Authorized Employee Representative, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union ("USW") (collectively, the "Parties") agree to a full and complete settlement of the above-referenced inspection numbers under the Occupational Safety and Health Act of 1970, 29 USC §§ 651, *et seq.* ("OSH Act" or "Act").

B. Covered Facilities. This Agreement applies to the following Republic Steel facilities under federal OSHA jurisdiction (the “Covered Facilities”):

Republic Steel - Lorain Plant  
1807 East 28<sup>th</sup> Street  
Lorain, Ohio 44055

Republic Steel - Canton Plant  
2633 Eighth Street, NE  
Canton, Ohio 44074

Republic Steel - Massillon Plant  
401 Rose Avenue, SE  
Massillon, Ohio 44646

Republic Steel - Lackawanna Plant  
3049 Lakeshore Road  
Blasdell, New York 14219

This Agreement does not apply to Republic Steel facilities located in states that administer state plans approved under Section 18 of the Act.

C. Agreement Not to Contest and Withdrawal of Notices of Contest. Republic Steel agrees not to contest, and agrees to withdraw any notice of contest it has filed in regard to the citations, proposed penalties and abatement dates referenced by the following OSHA inspection numbers: Inspection No. 942971; Inspection No. 942968; Inspection No. 942967; Inspection No. 942545; Inspection No. 943172; Inspection No. 944135; Inspection No. 942416; and Inspection No. 943081 (the “Uncontested Citations”). Republic Steel further agrees to withdraw its Notice of Contest of the Citations included in OSHRC Docket Nos. 13-1562 (Inspection No. 891561), 13-1897 (Inspection No. 912917), 14-0515 (Inspection No. 941037) and 14-0514 (Inspection No. 941464) (the “Contested Citations”).

D. Final Orders Under the Act. The Uncontested Citations and the Contested Citations as amended by this Agreement shall become final, unreviewable orders of the Occupational Safety

and Health Review Commission by operation of section 10 of the Act, 29 USC 659.

E. Supersedes Prior Agreement. This Agreement supersedes and terminates the prior agreement between the Parties in Occupational Safety and Health Review Commission Docket No. 11-1533 that was executed in March 2012 (the “March 2012 Agreement”). Notwithstanding, pursuant to this Agreement, Republic Steel shall do the following:

1. Immediately abate all hazards identified in the Lorain Bar Mill Fall Protection Audit dated August 27, 2012.
2. Certify compliance with Part VI.B.6. (“Contractor Training”) of the March 2012 Agreement by stating that, as of March 31, 2014, Republic Steel has offered 10-hour health & safety training (as described in Part VI.B.5. of the March 2012 Agreement) to each contractor that has, or is expected to have, a presence at the Covered Facilities for more than thirty (30) days in a calendar year to the extent such training is relevant to the contractor’s work activities inside the Covered Facilities.
3. Certify compliance with Part VI.A.4. (“Best Practices Tracking Methodology”) of the March 2012 Agreement.
4. Certify compliance with Part VII.F. (“Additional Safety Representative”) of the March 2012 Agreement by stating the name of the employee holding the described position. Furthermore, Republic Steel shall retain this additional safety representative for the duration of this Agreement so long as steel-making and casting operations continue at the Lorain Facility.
5. Republic Steel shall certify compliance with Part I.E. paragraphs 1, 2 and 3 above, as required by 29 C.F.R. §1903.19, within ten (10) days of this Agreement’s effective date.

**II.**

**Amendment of the Citations**

The parties agree that the Uncontested Citations and the Contested Citations described above are amended by this Agreement to include the full terms of this Agreement including the abatement actions and dates stated herein.

**III.**

**Payment of Penalties**

A. Sum of Total Proposed Penalties. The total sum of penalties proposed by the Uncontested Citations and Contested Citations is Five Million Four Hundred Ninety Three Thousand Three Hundred Twenty and 00/100 dollars (\$5,493,320).

B. Full and Final Settlement of Uncontested Citations and Contested Citations. In full and final settlement of the Uncontested Citations and Contested Citations, Republic Steel agrees to the following:

1. Payment of \$2,400,000. Republic Steel shall pay the sum of Two Million Four Hundred Thousand and 00/100 dollars (\$2,400,000). This amount shall be paid by Republic Steel in twenty-four (24) monthly installments of One Hundred Thousand and 00/100 dollars. The first such payment shall be made within thirty (30) days of the effective date of this Agreement. Payments shall be made by check, made payable to "U.S. Department of Labor – OSHA," sent to the indicated OSHA Area Office on the following schedule:

|             |  |
|-------------|--|
| Month 1:    | \$47,698 to Buffalo, NY Area Office, and<br>\$52,302 to Toledo, OH Area Office   |
| Months 2-5: | \$100,000 to Toledo, OH Area Office  |
| Month 6:    | \$36,154 to Toledo, OH Area Office, and<br>\$63,846 to Cleveland, OH Area Office |

Months 7-24: \$100,000 to Cleveland, OH Area Office

2. Suspended Penalties Due in Case of Substantial Failure to Comply. If OSHA reaches a preliminary determination that there has been a substantial failure to perform the obligations under this Agreement by Republic Steel, OSHA shall follow the procedures set forth in Part XX. below. If, after following the procedures set forth in Part XX. below, OSHA determines that there has been a substantial failure to perform the obligations under this Agreement and that Republic Steel has failed to make an objectively reasonable good faith effort to cure the non-compliance, the Secretary may file a petition with the Court of Appeals under Section 11(b) of the Act. In the event such a petition is filed and the Court of Appeals determines that there was a substantial failure to perform the obligations under this Agreement by Republic Steel, and that Republic Steel failed to make an objectively reasonable good faith effort to cure the non-compliance in accordance with Part XX. below, an additional amount of the penalties originally proposed in the Uncontested Citations and Contested Citations in the amount of One Million Six Hundred Thousand and 00/100 dollars (\$1,600,000) (the "Suspended Penalties") shall be due and payable to OSHA in sixteen (16) monthly installments of One Hundred Thousand Dollars (\$100,000) beginning with the 25<sup>th</sup> month following the effective date of this Agreement or the date on which a Court of Appeals makes a final determination on the matter, whichever is later. The Suspended Penalties shall become due and payable only after a determination by the Court of Appeals that there was a substantial failure to perform the obligations under this Agreement by Republic Steel, and that Republic Steel failed to make an objectively reasonable good faith effort to cure the non-compliance in accordance with Part XX.

below.

**IV.**

**Abatement and Certification**

A. Certification of Abatement of Uncontested Citations and Contested Citations. Republic Steel shall abate the alleged violations set forth in Inspection No. 942545, Citation 2, Items 1 and 4, within ninety (90) days of this Agreement's effective date, and shall certify compliance within ten (10) days thereafter, as required by 29 C.F.R. §1903.19. Republic Steel shall immediately implement effective controls to eliminate employee exposure to the hazards identified in such citations. Republic Steel shall abate all remaining alleged violations cited in the Uncontested Citations and the Contested Citations, within thirty (30) days of this Agreement's effective date in the manner required in applicable OSHA standards, and shall certify compliance within ten (10) days thereafter, as required by 29 C.F.R. §1903.19. Republic Steel may request a reasonable extension of time under Part IV.G. below.

B. Abatement of Hazards Identified in the Hazard Alert Letters. Republic Steel shall abate, within sixty (60) days of this Agreement's effective date, the alleged violations identified in the Hazard Alert Letters issued to Republic Steel on March 12, 2014 and March 31, 2014, in a manner consistent with applicable OSHA standards, and shall certify compliance within ten (10) days thereafter in the manner set forth in 29 C.F.R. §1903.19. Republic Steel may request a reasonable extension of time under Part IV.G. below.

C. Abatement - Interim and Permanent Controls. Republic Steel shall immediately implement effective interim controls for all hazards identified in the Uncontested Citations, Contested Citations, and Hazard Alert Letters, as well as all hazards identified by the Joint Safety and Health Committee ("JSC") (as defined in Part VIII.M. below), the Hazards Expert (as defined

in Part VI.B. below), the Abatement Auditor (as defined in Part VI.C. below), and any other person inspecting the Covered Facilities pursuant to the terms of this Agreement (“Identified Hazards”). At a minimum, effective interim controls must eliminate employee exposure to the hazard. Such controls shall consist of one (1) or more of the following:

1. Posting a sign or clearly marking the area to warn employees of the Identified Hazard.
2. Temporarily changing operating procedures to prevent employee exposure to the Identified Hazard.
3. Informing employees of the Identified Hazard, and that no entry into the area shall be allowed without a written work authorization (“work authorization”) signed by a supervisor or manager. The work authorization shall identify the hazard and the location and the details of alternative protective measures to be used. If the alternate protective measures are to wear personal protective equipment (“PPE”), the supervisor or manager signing the work authorization shall assure that the PPE protects the employee completely from the Identified Hazard, the employee has been trained to use the PPE, and that the employee is using the PPE properly. Prior to entry into the posted area, the supervisor or manager and employee shall complete and sign the written work authorization certifying that the procedures were implemented prior to entry. The work authorizations shall be retained for at least twenty-four (24) months.

As soon as practicable after being placed on notice of an Identified Hazard, Republic Steel shall determine the permanent controls required to abate the hazard and the date such permanent controls can be installed or implemented.

D. Four (4) Weeks to Install Equipment Recommended as Permanent Controls. Unless otherwise required as set forth in Parts IV.A. and IV.B. above, if the Hazards Expert (as defined

in Part VI.B. below), Abatement Auditor (as defined in Part VI.C. below), Joint Safety and Health Committee (“JSC”) (as defined in Part VIII.M. below), or any other person inspecting pursuant to the provisions of this Agreement, notifies Republic Steel of an Identified Hazard, Republic Steel shall determine whether permanent controls are required by applicable OSHA standards or the Act to abate the hazard, and, if so, Republic Steel shall install such permanent controls as soon as practicable, but not longer than four (4) weeks thereafter. Republic Steel may request a reasonable extension of time under Part IV.G. below.

E. Recommended Procedures, Systems or Programs. If the Hazards Expert (as defined in Part VI.B. below) or Abatement Auditor (as defined in Part VI.C. below) recommends development and implementation or improvement of any procedure(s), management system(s), or program(s), such recommendation shall be brought to the Executive Safety Committee (“ESC”) (as defined in Part VIII.A. below) for review and consideration at its next scheduled meeting. If the ESC determines that the recommendation is feasible and consistent with the goals of the Health & Safety Management Program, as described in Part VII. below (“H&S Program”), Republic Steel shall implement the recommendations as soon as practicable but not later than sixty (60) days after the ESC makes its determination. The ESC shall notify OSHA of the recommendation, the status of its consideration by the ESC, and its resolution or proposed resolution at the next scheduled quarterly status meeting. Republic Steel may request a reasonable extension of time under Part IV.G. below.

F. Health & Safety Management Program – Abatement Dates. **Appendix A** sets forth the dates for the development and implementation of the Health & Safety Management Program (“H&S Program”) described in Part VII. below. Republic Steel may request a reasonable extension of time under Part IV.G. below for any dates set forth in **Appendix A**.



G. Reasonable Extensions of Time. If Republic Steel is unable to comply with any of the time periods set forth in this Agreement, Republic Steel shall notify OSHA in writing of the need for the extension and submit a written request for extension that describes the specific matter for which the extension is needed, the date by which Republic Steel can comply, and the reason for the extension. OSHA shall not unreasonably deny Republic Steel's request for the extension.

V.

**Meetings With OSHA**

During the first twelve (12) months after the effective date of this Agreement, OSHA and Republic Steel shall hold quarterly meetings to discuss the status of compliance and Republic Steel's implementation of this Agreement. The USW and any other authorized representative of affected employees shall be invited to attend and a reasonable attempt shall be made to include the USW at the meeting. Attendance by the USW or any other authorized employee representative shall not be a requirement to have the meeting. Republic Steel shall be prepared to discuss its compliance with the terms of this Agreement and its progress in developing and implementing the H&S Program. At these meetings, OSHA shall notify Republic Steel of any and all concerns that OSHA has identified that arise between quarterly meetings regarding Republic Steel's compliance with this Agreement, as well as any and all health and safety concerns OSHA may have or that the USW or any other authorized employee representative may have raised to OSHA. Republic Steel shall provide its plan to resolve these concerns to the satisfaction of OSHA within forty-eight (48) hours of notification. To the extent such concerns include Identified Hazards, they shall be handled in the manner set forth in Part IV. above. During the final twelve (12) months of the term of this Agreement, the aforementioned meetings shall be held every six (6) months. All members of the ESC (as defined in Part VIII.A. below) shall attempt to attend these meetings, but the failure of

any ESC member to attend shall not relieve Republic Steel or OSHA of the requirement to attend. Republic Steel and OSHA shall cooperate in good faith to schedule the meetings.

## VI.

### **The Third Party Independent Consultants**

A. Selection Procedure: Independent Third Party Hazards Expert. Within sixty (60) days of the effective date of this Agreement, Republic Steel shall furnish the name and curriculum vitae of the person(s) or firm(s) with the expertise described below whom Republic Steel proposes to retain pursuant to Part VI.B. below. OSHA has fifteen (15) days to object to the selection. If OSHA objects, Republic Steel shall continue the search until it locates a person to whom OSHA does not object. That person and/or his or her firm shall be retained by Republic Steel, at its own cost, promptly following expiration of the fifteen (15) day period without objection. This process shall not extend the abatement, certification, and document submission dates set forth in this Agreement.

#### B. Independent Third Party Hazard Expert.

1. Within six (6) months of this Agreement's effective date, Republic Steel shall retain one (1) or more experts qualified by education, training and experience (the "Hazards Expert"), to conduct, and the expert(s) shall conduct, a hazard analysis at each Covered Facility, and shall recommend engineering controls and associated requirements to address all hazards in a manner fully compliant with OSHA standards. The Hazards Expert shall be qualified to conduct a hazard analysis particularly in the area of steel manufacturing and production, fall protection, the control of hazardous machine energy (lockout/tagout and guarding), PPE, and lead exposures. The Hazards Expert shall be provided with copies of OSHA's citations described in Part I.C. above.

2. The analysis and recommendations by the Hazards Expert shall include the following elements:
  - a) The analysis shall be comprehensive, that is, the Hazards Expert shall inspect and evaluate each and every area within and outside buildings of the Covered Facilities where it is reasonably foreseeable that employees work or travel through at least once in a three-month period. Furthermore, the inspections shall be conducted at varying times during each scheduled shift.
  - b) The Hazards Expert shall be informed that fall hazards, machine guarding and energy control (lockout/tagout) in areas where workers are most present shall be given the highest priority.
  - c) All controls recommended and implemented shall be consistent with applicable OSHA standards.
  - d) When feasible, priority shall be given to permanent controls that reduce the potential for human error and are not dependent on signs, procedures or PPE.
  - e) Interim controls may not be used for final abatement.
  - f) All recommended fall protection systems, tie off point(s) and lifelines shall be designed, installed, used and maintained in accordance with the applicable OSHA standards and generally recognized good engineering practices.
3. In performing the analysis and developing the recommendations, the Hazards Expert shall interview both hourly and salaried employees confidentially to assure that the evaluation is comprehensive. The Hazards Expert may consult with or interview the Covered Facility's managers, supervisors, including turn supervisors, and employees on each shift. Management shall encourage employees to speak openly and freely during such interviews.
4. During visits by the Hazards Expert, Republic Steel shall not intentionally curtail operations or production for the purpose of hindering or interfering with the inspection.
5. The Hazards Expert shall assure that in those areas where employees must work using PPE, that those fall protection systems, including the tie off points and lifelines, conform to applicable OSHA standards and recognized good engineering practices.
6. After conducting the aforementioned hazard analysis at each of the Covered Facilities,

the Hazards Expert shall provide Republic Steel with a report of findings and recommendations to address all potential health and safety hazards at such facility in a manner fully compliant with OSHA standards. The last such report shall be submitted to Republic Steel no later than one (1) year after the effective date of this Agreement.

7. Republic Steel shall ensure that all health and safety hazards identified in the Hazards Expert's reports are abated as described in Part IV. above. Republic Steel shall begin taking action to abate such hazards immediately upon receiving the first report from the Hazards Expert.
8. Within thirty (30) days after receiving the Hazards Expert's last report, Republic Steel shall provide to OSHA a report certifying its actions in abating the health and safety hazards identified in each report for each of the Covered Facilities.
9. The Parties anticipate that the Hazards Expert, during his/her audit, will identify health and safety hazards in the Covered Facilities, and that the identification of such hazards, alone, will not amount to a breach of this Agreement. Moreover, if Republic Steel makes an objectively reasonable good faith effort to abate such identified hazards in the manner set forth in Part IV. above, OSHA may not take action or seek penalties under Section 10(b) or Section 11(b) of the Act solely as a result of the existence or identification of such hazards.
10. Republic Steel may request a reasonable extension of time under Part IV.G. above.

C. Independent Abatement and Interim Controls Auditor.

1. No later than nine (9) months after the effective date of this Agreement, Republic Steel shall furnish the name of a person(s) or firm(s) qualified by education, training and experience, and independent of the Hazards Expert (the "Abatement Auditor"), to audit

abatement of health and safety hazards identified by the Hazards Expert, including installation of recommended equipment and implementation of interim controls at the Covered Facilities. This auditor shall be knowledgeable, at least, in the OSHA standards governing machine guarding, the control of hazardous energy (lockout/tagout and machine guarding), fall protection, PPE, and lead. OSHA has fifteen (15) days to object to the selection. If OSHA objects, Republic Steel shall continue the search until it locates a person to whom OSHA does not object. That person and/or his or her firm shall be retained by Republic Steel promptly following expiration of the fifteen (15) day period without objection. This process shall not extend the abatement, certification, and document submission dates set forth in this Agreement.

2. During the three (3) month period following Republic Steel's submission of the certification described in Part VI.B.8. above, the Abatement Auditor shall begin conducting inspections at each Covered Facility. The Abatement Auditor shall give Republic Steel no more than three (3) days' notice of the inspection. During each inspection, the Covered Facility's management shall extend all necessary aid to the auditor. Republic Steel also shall provide the Abatement Auditor with copies of the Hazards Expert's reports within ten (10) days of receipt of the last report. The Abatement Auditor shall do the following:

- a) Physically inspect the work areas;
- b) Observe and speak confidentially with employees and supervisors working in these areas for the length of time that the auditor determines to be necessary to form an opinion on the adequacy of the controls and their implementation;
- c) Immediately inform management if an employee is observed exposed to a health and safety hazard; and

- d) Identify work procedures, programs or systems that could be developed and implemented or improved to mitigate or avoid the risk of health and safety hazards developing in the work area, and develop an action plan to implement the identified changes.
3. During visits by the Abatement Auditor, Republic Steel shall not intentionally curtail operations or production for the purpose of hindering or interfering with the inspection.
4. For each inspection, the Abatement Auditor shall prepare a report of the findings and recommendations. The last such report shall be completed and submitted to Republic Steel no later than eighteen (18) months after the effective date of the Agreement.
5. In the event the Abatement Auditor identifies health and safety hazards not previously identified by the Hazards Expert, Republic Steel shall assure that such hazards are abated in the manner set forth in Part IV. above.
6. Within thirty (30) days after receiving the Abatement Auditor's final report, Republic Steel shall provide to OSHA a report certifying its actions in abating any identified health and safety hazards and implementing any recommendations other than those set forth in Part IV.E. above, which shall be dealt with in accordance with that provision.
7. The parties anticipate that the Abatement Auditor, during his/her audit, will identify health and safety hazards in the Covered Facilities, and that the identification of such hazards by the Abatement Auditor, alone, will not amount to a breach of this Agreement. Moreover, if Republic Steel makes an objectively reasonable good faith effort to abate such identified hazards in the manner set forth in Part IV. above, OSHA may not take action or seek penalties under Section 10(b) or Section 11(b) of the Act as a result of the existence or identification of such hazards.
8. Republic Steel may request a reasonable extension of time under Part IV.G. above.

D. Reports to OSHA. Reports prepared by the Hazards Expert and Abatement Auditor

shall be provided to the OSHA Regional Office in Chicago by electronic transmission (“email”) or overnight mail on the date provided to Republic Steel, and made available upon request to employees, and the USW.

E. Compliance with OSHA Standards. The failure of the Hazards Expert or Abatement Auditor to find a health and safety hazard or recommend abatement of a health and safety hazard shall not relieve Republic Steel of the responsibility to comply with the OSH Act and all applicable OSHA standards.

F. No Citations for Hazards Properly Abated. OSHA shall not cite Republic Steel for any hazards identified by the Hazards Expert or Abatement Auditor that are abated by Republic Steel in accordance with the terms of this Agreement so long as the hazard(s) remains abated.

## VII.

### Health and Safety Management Program

A. Health and Safety Management Program Elements. Republic Steel shall develop, implement and maintain the H&S Program, which provides for the systematic identification, evaluation, and prevention or control of workplace health and safety hazards and that is consistent with OSHA’s Safety and Health Program Management Guidelines [54 Fed. Reg. 3904 (Jan. 26, 1989)]. Specifically, Republic Steel shall:

1. Demonstrate its commitment to workplace health and safety by:
  - a) Developing and implementing the H&S Program.
  - b) Defining goals and expectations for the H&S Program.
  - c) Assigning responsibility and accountability for implementing and maintaining the H&S Program.
  - d) Communicating its goals and expectations to all employees and contractors.
  - e) Allocating appropriate resources (funds and time) to accomplish goals and manage the H&S Program.
  - f) Recognizing employee contributions to workplace health and safety.

2. Involve employees in the H&S Program by:

- a) Involving employees in developing the H&S Program.
- b) Assigning roles to employees in implementing the H&S Program.
- c) Include employees when evaluating and updating the H&S Program.
- d) Providing employees with information on how to report an injury, illness, health and safety hazard, or concern, including good catches/near misses.
- e) Instructing employees to report injuries, illnesses, health and safety hazards, and concerns, including good catches/near misses.
- f) Acknowledging and resolving reports of injuries, illnesses, health and safety hazards, or other concerns in a reasonable amount of time.
- g) Involving employees in workplace inspections.
- h) Involving employees in incident investigations.
- i) Instructing all management employees that all employees have the right to report injuries, illnesses, health and safety hazards, or other concerns without fear of reprisal, pressure from superiors or coworkers, or loss of incentives tied to injury rates.

3. Identify health and safety hazards by:

- a) Reviewing written materials such as injury logs, safety data sheets, medical reports, results of workplace inspections, and incident investigation reports to identify health and safety hazards.
- b) Analyzing trends in injury and illness data that indicate the presence of common health and safety hazards.
- c) Inspecting the workplace regularly to identify conditions that pose or could pose a safety or health concern, violations of the OSHA standards, and recognized health and safety hazards.
- d) Establishing a hazards-mapping team, providing hazards-mapping training, and performing hazards-mapping exercises.
- e) Instructing managers to ask employees about health and safety hazards and concerns in their work areas.
- f) Investigating incidents to identify any health and safety hazards previously unrecognized or inadequately controlled.
- g) Conducting all inspections and exposure assessments required by OSHA standards.
- h) Identifying health and safety hazards associated with emergencies and non-routine operations.
- i) Informing employees of health and safety hazards in their work areas.

4. Control health and safety hazards by:

- a) Developing a hazard control plan where appropriate, and revising it to reflect current work conditions as necessary.



- b) When feasible, controlling health and safety hazards according to the “hierarchy of controls”: 1) engineering controls, 2) work practices, 3) administrative controls, and 4) PPE.
- c) Implementing all controls required by applicable OSHA standards.
- d) Installing controls as soon as possible after a health and safety hazard is identified and management is notified.
- e) Informing employees of the controls that have been implemented for the health and safety hazards in their work area.
- f) Assigning responsibility for ensuring that controls are implemented and verifying that they are effective.
- g) Tracking the implementation of controls to completion.

5. Provide education and training for all production and maintenance employees

(including managers) by:

- a) Training employees on the elements of the H&S Program and how to participate in it.
- b) Training employees on their roles and responsibilities under the H&S Program.
- c) Training employees on the procedures for reporting injuries, incidents, health and safety hazards, and concerns.
- d) Explaining to employees that they have a right to participate in the H&S Program and report injuries, incidents, health and safety hazards, and concerns without fear of retaliation or discrimination.
- e) Providing an opportunity for employees to ask questions, receive answers and provide feedback during and after training.
- f) Providing supplemental training when a change in the workplace could introduce new or increased health and safety hazards.
- g) Providing supplemental training when an employee is assigned a new task or given a new assignment.
- h) Providing training in a language and at a literacy level that all employees can understand.
- i) Establishing a system to evaluate the effectiveness of the training and periodically re-evaluating the effectiveness of the training.
- j) Providing additional training each year, at least during the term of this Agreement, on fall protection, lockout/tagout, machine guarding and lead hazards to assure that employees understand the health and safety hazards and the methods required to control these health and safety hazards.

6. Evaluate the H&S Program by:

- a) Conducting an annual review of the H&S Program to determine whether all H&S Program elements are fully implemented.
- b) Involving employees in H&S Program reviews.
- c) Establishing and using appropriate metrics and data to evaluate progress.

- d) Determining if progress is being made toward achieving established goals.
- e) Modifying the H&S Program as needed to correct deficiencies.

7. Communicating with contractors by:

- a) Reviewing all contractor job plans for health and safety hazards, and their prevention and control.
- b) Informing contractors of the health and safety hazards they may encounter during their work on site.
- c) Requiring contractors to provide information on the health and safety hazards they cause as part of their work.
- d) Informing contractors about emergency procedures.
- e) Establishing a reporting mechanism for all contractors to use to report injuries, health and safety hazards, and concerns.

B. Development and Implementation Schedule. Republic Steel shall develop and implement the H&S Program according to the Milestones set forth below (which are also set forth in Appendix A).

1. Within ninety (90) days of this Agreement's effective date, Republic Steel shall provide a draft of the H&S Program to OSHA. OSHA shall have thirty (30) days to review, comment, object to any language, and identify deficiencies in the H&S Program. Republic Steel shall then have fifteen (15) days to propose language acceptable to OSHA. The process shall continue until Republic Steel proposes language acceptable to OSHA.
2. Within sixty (60) days after the H&S Program is finalized in the manner set forth in Part VII.B.1. above, Republic Steel shall begin implementation of the H&S Program. Implementation includes training all employees in the H&S Program consistent with the above requirements and providing a written summary of the H&S Program to each employee.
3. Within sixty (60) days after the H&S Program is implemented in accordance with Part

VII.B.2. above, Republic Steel shall institute the health and safety hazard identification and control process. This process shall include a schedule of health and safety hazards identified, the areas where the health and safety hazards exist, the date of correction, and, if applicable, a description of the interim controls in effect, as defined in Part IV.C. above.

4. Within one (1) year of this Agreement's effective date, the H&S Program shall be fully developed and implemented.

C. Documenting and Reporting Implementation of the H&S Program. One (1) year after implementation of the H&S Program in accordance with Part VII.B.2., Republic Steel shall audit its performance in implementing the H&S Program described above, by completing the audit tool provided in **Appendix B**. The audit tool shall be completed and signed by the ESC. The ESC shall submit the audit tool and a report describing the deficiencies and its recommendations to improve the H&S Program to OSHA by email or overnight mail within thirty (30) days after completing the audit and also provide a copy to Republic Steel. Within forty-five (45) days of receipt of the audit and report from the ESC, Republic Steel shall correct all deficiencies and implement the recommendations. The parties acknowledge that, at the time the ESC conducts the aforementioned audit of the H&S Program, deficiencies in the H&S Program will exist, and that the identification of such deficiencies, alone, will not amount to a breach of this Agreement. Moreover, if Republic Steel makes an objectively reasonable good faith effort to correct any such deficiencies, OSHA may not take action or seek penalties under Section 10(b) or Section 11(b) of the Act as a result of the existence or identification of such deficiencies. Nothing in this provision shall limit the Secretary's right to enforce the provisions of the OSH Act, 29 USC §§ 651, *et seq.*

## VIII.

### Safety Structure Improvements

A. Executive Safety Committee. Republic Steel shall form an Executive Safety Committee (“ESC”). The ESC shall consist of an equal number of Republic Steel management representatives and USW officials. The ESC shall serve in an advisory capacity to Republic Steel for certain safety-related matters. If, for any reason, the ESC is unable to reach agreement on any matter that comes before it, Republic Steel’s Chief Executive Officer shall retain ultimate authority to make the final determination on the matter.

B. Letter Committing Republic Steel to Improved Health and Safety; Right to Refuse Unsafe Work Card. Within forty five (45) days of this Agreement’s effective date, Republic Steel’s CEO shall send a letter to each employee and his or her family assuring them of Republic Steel’s commitment to improved health and safety. Each employee shall receive a card stating that the employee has the right to refuse to perform work that the employee reasonably and in good faith believes is unsafe or unhealthful without fear of being disciplined or other form of reprisal.

C. Safety Stand-down. Within ninety (90) days of this Agreement’s effective date, Republic Steel shall hold a safety stand-down at each of the Covered Facilities. During each safety stand-down, all work shall be suspended and activities to improve health and safety shall be conducted that include, among other things, the following:

1. Discussion by management of the importance of health and safety at Republic Steel’s workplaces.
2. Training or retraining on the use of personal fall protection equipment and verification by supervisors that employees know how to use the equipment safely.
3. Other appropriate discussions or activities as determined by Republic Steel.

D. Areas Where Work is Not Currently or Regularly Conducted. In the event Republic Steel intends to send employees to work in an area within one of the Covered Facilities where work is not currently or regularly conducted (e.g., a special project, maintenance in preparation for opening a new area or building, etc.), Republic Steel agrees that before sending employees in to do such work, it shall conduct a hazard analysis and pre-job safety review to prevent employee exposure to any hazards. Republic Steel shall retain the pre-job safety reviews for the term of this Agreement.

E. Personal Fall Protection Area Inventory. Within four (4) months of this Agreement's effective date, Republic Steel shall perform an inventory (the "Inventory") of all areas in the Covered Facilities that regularly require the use of personal fall protection equipment and mark the areas with appropriate signage or other equally effective means to warn employees that fall protection is required in the area. To the extent possible, suitable tie off point(s) shall be distinctively marked. If necessary, the Inventory shall be revised and supplemented under the H&S Program to reflect the findings and recommendations made during the hazard identification process by the Hazards Expert, the Abatement Auditor, and other persons conducting inspections under this Agreement. In no case, including areas that have not been assessed for fall protection, shall an employee be permitted to work using fall protection until a qualified safety professional or other properly trained individual has identified suitable tie off points in the area. If, notwithstanding its good faith efforts, Republic Steel is unable to comply fully with this provision within the aforementioned time period, Republic Steel shall immediately notify OSHA in writing and submit a request for extension of time that identifies the compliance issues and the date when Republic Steel shall be able to complete the Inventory. OSHA shall not unreasonably deny Republic Steel's request for the extension.

F. Documentation that Fall Protection Systems Comply with Generally Recognized Good Engineering Principles. Republic Steel shall maintain documentation establishing that all fall protection systems in use at the Covered Facilities have been and are designed, installed, used and maintained in accordance with the applicable OSHA standards and generally recognized good engineering principles.

G. Health and Safety Personnel. Within sixty (60) days of this Agreement's effective date, Republic Steel agrees that it shall have a full-time health and safety ("H&S") manager at each Covered Facility, and to create or to retain employees in full-time positions as H&S professionals whose duties shall be to oversee the health and safety of Republic Steel employees at the Covered Facilities. These individuals shall be qualified by education, experience, and training in health and safety, preferably in steel production or heavy industrial manufacturing facilities. Each Covered Facility shall employ a sufficient number of H&S professionals to assure the development and effective implementation of the H&S Program and compliance with the terms of this Agreement. If, during the term of this Agreement, a H&S Manager position at one of the Covered Facilities becomes vacant, Republic Steel shall, as soon as practicable, make good faith efforts to fill the position.

H. Safety Equipment Maintenance. Republic Steel shall implement procedures to verify the quality, integrity, existence, installation, and maintenance of all safety equipment, including guardrails, machine guards, tie off points, horizontal life lines, and signage. Republic Steel shall verify that all work orders contain instructions to replace any safety equipment, including guardrails and machine guards, prior to submitting the work order as completed. If notified that any safety equipment has been removed or damaged, Republic Steel shall prioritize all work orders to repair or replace such safety equipment, schedule the items for repair or replacement within

forty-eight (48) hours of receipt of the work order, track the item through to completion, and report overdue items to the Covered Facility's manager at the beginning of each work day. If the repair or replacement is not complete within forty-eight (48) hours, interim controls to reduce employee exposure shall be implemented. Under no circumstances shall an employee be exposed to a hazard during the repair or replacement period. If interim controls are or will be used for a period longer than four (4) weeks, Republic Steel shall report the delay and the reasons for the delay at the next scheduled meeting with OSHA.

I. Access to Lockout/Tagout Procedures and Equipment. Republic Steel shall assure that only authorized, properly trained employees perform service or maintenance that requires the use of hazardous machine energy controls, and that they have ready access to current lockout/tagout procedures and all required locks and/or tags and other equipment required to perform the work safely.

J. Inspection of Lockout/Tagout Procedures. Republic Steel shall ensure that it conducts periodic inspections of each energy control procedure at least annually. The inspection shall include a review of the written procedures and observation of the procedures during their use by an authorized employee, other than the employee performing the procedure, to determine whether the procedure is adequate to isolate all sources of hazardous energy effectively and whether employees can perform the procedure effectively. Following the inspections, the written procedures shall, to the extent necessary, be updated and corrected to assure that they reflect current conditions and that all sources of hazardous energy are isolated effectively before any authorized employee is allowed to use the procedure. If the procedure is revised or the employees demonstrate that they are unfamiliar with the procedure, employees shall be retrained.

K. Electronic Tracking of Health and Safety and Maintenance Orders. Within ninety (90)

days of this Agreement's effective date, Republic Steel shall identify, assess, and evaluate electronic programs to track and to verify the identification and abatement of health and safety hazards, and to track and verify the performance and completion of work entered on maintenance orders. Within the first nine (9) months of this Agreement's effective date, Republic Steel shall implement electronic health and safety tracking systems and electronic maintenance work systems at all Covered Facilities.

L. Management Performance Rating for Safety. Starting in 2015, Republic Steel shall use leading indicators when appraising the performance of its production and maintenance supervisors and managers and determining their compensation.

M. Joint Health and Safety Committee. Within thirty (30) days of this Agreement's effective date, Republic Steel and the USW will initiate and maintain a Joint Health and Safety Committee ("JSC"), whose purpose is to combine the efforts of management, employees and USW representatives at each Covered Facility to cooperate to identify and to correct health and safety hazards. Among the functions of the JSC will be to meet at least one (1) time each month for a period of time (as determined by the Co-Chairs) to discuss plant-related health and safety matters, conduct monthly health and safety inspections and take part in incident investigations. Within sixty (60) days of this Agreement's effective date, the union Co-Chair and designee of the JSC shall be included in the automatic contact list for all of the following events: health and safety incidents, near misses, safety alerts, fires, exposure records, AED use, or ambulance runs or rescues. The USW members of the JSC will be afforded an appropriate amount of time to meet beforehand to prepare for the meeting and discuss potential agenda items and will provide the opportunity for the involvement and input of any other authorized representative of employees.



N. JSC Monthly Health and Safety Audits/Inspections.

1. For the term of this Agreement, the JSC will conduct health and safety audits and inspections of each Covered Facility with the continuing objective of eliminating/controlling health and safety hazards to prevent occupational injuries and illnesses by identifying and correcting health and safety hazards and ensuring compliance with OSHA regulations. Special attention will be paid to fall and machine energy (machine guarding and lockout/tagout) hazards, including those that were recently cited by OSHA. Republic Steel shall correct identified health and safety hazards in the manner set forth in Part IV. above. The results of the respective monthly internal health and safety audits and inspections will be posted on the Republic Steel's bulletin boards or other locations where communications to employees are usually placed. If possible, the audits will be scheduled for a time when Republic Steel is running normal production and employees are at their normal assignments. The JSC will have equal numbers of management and union representatives. The JSC will agree to a process including taking photographs, samples, and gathering other useful material, mindful of potential concerns regarding confidentiality, trade secrets, and/or intellectual property rights. During the audits and inspections, the JSC members will be able to take pictures and take samples (per an agreed upon process), speak to hourly employees without unreasonable interruptions of production, and to take other appropriate measures to collect information (per an agreed upon process) relevant to the health and safety conditions at the Covered Facility. Republic Steel encourages the participation of the USW International in all phases of the H&S Program, including its meetings, audits, and inspections.

2. Republic Steel shall make available to OSHA and the USW the JSC audit/inspection reports, including findings, recommendations, action plans for the monthly audits and inspections, and any interim controls implemented.

O. Health and Safety Hazard Hotline. Republic Steel shall, within thirty (30) days of this Agreement's effective date, implement a toll-free hotline telephone number, open twenty-four (24) hours a day, seven (7) days a week, for the purpose of providing a mechanism for employees to anonymously report potential health and safety concerns at the Covered Facilities (the "Hotline"). All reports generated from the Hotline shall go directly to Republic Steel's Director of Environmental, Health & Safety (the "EHS Director"). If any such report relates to a Company-wide matter, the EHS Director shall investigate and resolve the matter. If any such report relates directly to one of the Covered Facilities, the EHS Director shall immediately forward the report to the facility's Health & Safety Manager and Union Safety Coordinator. The Health & Safety Manager and Union Safety Coordinator shall either investigate and resolve the matter, or delegate it to the facility's JSC. The Health & Safety Manager, Union Safety Coordinator, and/or JSC shall investigate the matter and report back in writing to the EHS Director describing the concern identified in the report, the results of the investigation, the recommended resolution, and the proposed date of resolution. If the investigation reveals a safety or health hazard under the OSH Act or applicable OSHA standards, Republic Steel shall respond to the hazard in the manner set forth in Part IV.C. above. Republic Steel shall maintain the written report of the matter for a period of at least one (1) year. Republic Steel further agrees that, upon resolving any issues reported through this hotline, it shall post a resolution report at the safety bulletin board nearest to the location of the reported concern (to the extent practical). Republic Steel shall post information regarding the Hotline in employee break areas throughout the Covered Facilities, and shall list the

Hotline number in both the card and letter referenced in Part VIII.A. above.

P. Safety Bulletin Boards. Within thirty (30) days of this Agreement's effective date, Republic Steel shall use safety bulletin boards within each department of the Covered Facilities to facilitate communication with employees regarding safety related topics.

Q. No Retaliation. Republic Steel shall not retaliate or discriminate against any employee for, or otherwise engage in practices or implement policies that deter employees from participating in any activities described in this Agreement, including reporting health and safety concerns.

R. No Reporting Disincentives. Republic Steel shall not implement any program that rewards employees for not reporting workplace injuries or illnesses or for not reporting near-misses, as outlined in OSHA's Employer Safety Incentive and Disincentive Policies and Practices Memorandum – March 12, 2012.

## **IX.**

### **Training**

A. Contractors. Republic Steel shall provide basic orientation training regarding site-specific hazard recognition and facility familiarization (including emergency procedures) to any contractor or contractor's employee who enters a production area of the Covered Facilities, before permitting such individual to perform work in such area.

B. Training Under the H&S Program. Republic Steel shall train employees as provided in the H&S Program. Once the H&S Program is implemented, new employees shall be trained within forty-five (45) days after they are hired on the components of the H&S Program. In addition, new employees will be trained in accordance with all applicable OSHA regulations before being exposed to any hazards directly related to their job assignment or assigned duties. When necessary, transferred production and maintenance employees shall be trained on health and safety as relevant

to their new duties prior to assuming such duties. There shall be a particular emphasis on assuring the maintenance employees are properly trained and retrained as required in lockout/tagout procedures.

**X.**

**Progress Demonstration, Monitoring, and Inspection**

A. No Warrants or Subpoenas Required. OSHA shall monitor progress and compliance with this Agreement in accordance with OSHA Directive CPL 02-00-152, Guidelines for Administration of Corporate-Wide Settlement Agreements. During the term of this Agreement, Republic Steel shall permit OSHA to enter Republic Steel's Covered Facilities for the purpose of verifying compliance with this Agreement. Republic Steel shall not require a warrant for entry by OSHA for the purpose of verifying compliance with this Agreement and shall not require subpoenas for access to non-privileged documents or management interviews related to compliance with this Agreement. The scope of such monitoring inspections shall be limited to verifying compliance with the terms of this Agreement, unless other non-compliant conditions are observed in the plain view of an OSHA compliance officer during the verification visit. Republic Steel agrees that it shall respond to any request for documents within seven (7) business days. When OSHA conducts a monitoring or other inspection, Republic Steel shall not intentionally curtail operations or production for the purpose of hindering or interfering with the inspection.

B. Status Reports - Information Required. During each meeting referenced in Part V. above, Republic Steel shall provide a written summary of ("the Status Report"), and be prepared to discuss, its compliance with the terms of this Agreement and its progress in developing and implementing the H&S Program. The Status Reports shall summarize the information since the date of the last meeting referenced in Part V. above for the following documents (copies of which

shall be retained by Republic Steel during the term of this Agreement and made available for inspection to OSHA upon its request):

1. Certification of abatement of all health and safety hazards identified (Identified Hazards as defined by Part V. above) by the Hazards Expert and Abatement Auditor, including photographs of the abatement and other forms of documentation;
2. Internal inspection, hazard identification, and abatement reports, mandated by this Agreement, including those performed by the JSC;
3. Discipline reports related to failure to abide by health and safety procedures;
4. Report on the progress toward implementing and maintaining the H&S Program described in Part VII. above, including the Audit Tool results described in that Part and **Appendix B** (once completed);
5. Work authorizations, inventories, schedules, summaries, reports, and other documents required under this Agreement, including those required under Parts IV.C., VIII.E., VIII.F., VIII.H., and VIII.J. above; and
6. Any documents requested by OSHA pursuant to Part X.A. above.

C. Due Dates of the Status Reports. The Status Reports shall be completed and provided to OSHA and the USW representative at least seven (7) business days before the meetings required pursuant to Part V. above.

D. Posting. The summary portion of the Status Reports shall be posted at each Covered Facility. The Status Reports shall be made available to employees and the USW within a reasonable time following requests for the Report. Information about the status of abatement implementation at a specific Covered Facility shall be made available to OSHA and employees

and the USW upon request.

**XI.**

**Audits Performed Under This Agreement Are “Required” Audits**

Any review of a Covered Facility mandated by this Agreement, including the audits conducted by the Hazards Expert and Abatement Auditor, and inspections by the JSC, shall not be considered a “voluntary” audit; rather, such audit shall be considered a “required” audit. Such audits shall be retained for the term of this Agreement.

**XII.**

**Abatement Certification and Documentation**

A. Location to Send Certification Documents. The certification and document submission shall be mailed to OSHA in accordance with Part XVII. below.

B. Notification of Employees Required. Pursuant to 29 C.F.R. 1903.19(g), Republic Steel must notify employees and their Authorized Employee Representatives of abatement activities in accordance with this regulation.

**XIII.**

**Modification of Abatement Dates**

Nothing in this Agreement shall limit Republic Steel’s right to file a petition for modification of abatement under 29 C.F.R. 1903.14a. Furthermore, Republic Steel retains its right to seek variances and/or other legal redress as to implementation or abatement, as may be available at law.

**XIV.**

**Costs**

Each party agrees to pay its own attorney's fees, costs, and other expenses incurred by such party in connection with any stage of the above-referenced proceeding including, but not limited to, attorney's fees which may be available under the Equal Access to Justice Act, as amended.

**XV.**

**Effective Date and Term of Agreement**

The effective date of this Agreement is May 1, 2014 and its term shall be two (2) years thereafter, terminating on April 30, 2016. The passage of the termination date shall in no way signify, nor shall Republic Steel assert, that any abatement actions required under this Agreement need not be fully and timely implemented by Republic Steel.

**XVI.**

**Document Retention**

All documents required under the terms of this Agreement, including but not limited to the work authorizations, audits, fall protection system documents, and Status Reports shall be retained for the term of this Agreement.

**XVII.**

**Notice and Communications**

Republic Steel agrees that it will not refuse to provide to OSHA and the Authorized Employee Representative any reports or documents explicitly required by this Agreement on the grounds that such production is protected from disclosure by any privilege. Neither OSHA nor the USW shall disclose such information to any third parties except other OSHA or SOL

personnel concerned with the enforcement of the Act or, when relevant, in any proceeding under the Act, or otherwise required by law. If Republic Steel contends that any material provided is to be protected as a Trade Secret, Republic Steel shall so notify OSHA and the Authorized Employee Representative and shall clearly mark each page of the applicable document as "Confidential: Trade Secret." The parties acknowledge that all future requests directed to the United States Department of Labor for documents related to this case shall be governed by the provisions of the Freedom of Information Act ("FOIA"). Republic Steel acknowledges its designation of information as "Confidential: Trade Secret", does not necessarily mean that the information is protected from public inspection or disclosure under the FOIA. If disclosure of documents is sought by a request or demand under the FOIA, OSHA will give prompt notice thereof to Republic Steel within five days, and Republic Steel may resist by all legitimate means any attempt to compel disclosure. Finally, the parties agree that any appropriate disclosure under the FOIA does not violate this Agreement.

All notice and communications shall be to the following persons at the following addresses:

**OSHA:**

For reports related to corporate wide matters or relating to more than one facility: Gary Lescallet, OSHA Region V 230 South Dearborn Street Room 3244, Chicago, Illinois 60605 ([lescallet.gary@dol.gov](mailto:lescallet.gary@dol.gov))

For reports related solely to the Canton or Massillon facilities: Howard Eberts, OSHA Cleveland Area Director, Essex Place, 6393 Oak Tree Blvd. Suite 203, Independence, OH 44131-6964 ([eberts.howard@dol.gov](mailto:eberts.howard@dol.gov))

For reports related solely to the Lorain facility: Kim Nelson, OSHA Toledo Area Director 420 Madison Avenue, Suite 600, Toledo, OH 43604 ([nelson.kim@dol.gov](mailto:nelson.kim@dol.gov))



For reports related solely to the Blasdell, NY facility: Michael T. Scime, OSHA Buffalo Area Director, 130 S. Elmwood Avenue, Suite 500 Buffalo, NY 14202-2465 ([scime.michael@dol.gov](mailto:scime.michael@dol.gov))

**REPUBLIC STEEL:** Elizabeth Evans, V.P., General Counsel & Secretary  
2633 Eighth Street N.E., Canton, OH 44704  
([eevans@republicsteel.com](mailto:eevans@republicsteel.com))

Robert Koury, Employment & Labor Counsel  
1807 E. 28<sup>th</sup> Street, Lorain, OH 44055  
([rkoury@republicsteel.com](mailto:rkoury@republicsteel.com))

Mark Clark, Director - Environmental, Health & Safety  
2633 Eighth Street N.E., Canton, OH 44704  
([mclark@republicsteel.com](mailto:mclark@republicsteel.com))

**USW:** David McCall, Director USW- District 1  
777 Dearborn Park Lane, Suite J, Columbus, OH 43085  
([dmccall@usw.org](mailto:dmccall@usw.org))

Jim Frederick, USW Asst. Director, Health, Safety & Environment  
Five Gateway Center – Room 902, Pittsburgh, PA 15222  
([jfrederick@usw.org](mailto:jfrederick@usw.org))

## XVIII.

### **Enforcement Under Section 11(b) of the OSH Act**

Republic Steel agrees that all the terms of this Agreement shall be enforceable under Section 11(b) of the OSH Act. Republic Steel agrees that it shall not oppose the entry of such an order enforcing this Agreement and the final, amended citations by the U.S. Court of Appeals to which the Secretary of Labor presents this Agreement and supporting documents.

**XIX.**

**Failure to Abate**

Failure to comply with any provision of this Agreement is grounds for notice of failure to abate under Section 10 of the OSH Act.

**XX.**

**Procedure for Enforcement Under Sections 10(b) and 11(b) of the Act**

If OSHA reaches a preliminary determination that Republic Steel is not in compliance with a provision of this Agreement, other than the obligations in Part IV.A. above, OSHA shall promptly notify Republic Steel in writing via email, with a copy sent by regular mail. Such notice via email and mail shall be deemed sufficient notice under this provision if it is sent to Republic Steel's General Counsel, Employment & Labor Counsel, and EHS Director, and contains the following subject: NOTIFICATION OF NON-COMPLIANCE/ FAILURE-TO-ABATE (the "Initial Notice"). The Initial Notice shall articulate all bases for OSHA's preliminary determination with sufficient specificity for Republic Steel to evaluate and respond to the Initial Notice. Republic Steel will have fifteen (15) business days to provide a written response to OSHA's Initial Notice. If OSHA is not satisfied with Republic Steel's response, it will notify Republic Steel in writing (by email or regular mail) within fifteen (15) business days of receipt of Republic Steel's response and provide Republic Steel with a detailed explanation as to why the response does not resolve OSHA's concerns (the "Final Notice"). Immediately after Republic Steel has received OSHA's explanation, OSHA and Republic Steel shall engage in good faith negotiations, including, at a minimum, one (1) in-person meeting at the appropriate OSHA Area Office with the Office Area Director (or designee) and Republic Steel's management representative(s) to resolve the matter. If necessary, OSHA will send a representative to the

relevant site to allow OSHA and Republic Steel to better understand each other's concerns. The time period for this good faith attempt to resolve the matter (the "Negotiation Period") shall last no longer than thirty (30) business days following Republic Steel's receipt of OSHA's Final Notice. The parties may extend the Negotiation Period by mutual written consent to ensure full discussion of the issues. The written notice, response, and any other relevant communications will be served on the Authorized Employee Representative at the time the documents are issued. The Authorized Employee Representative shall be invited to respond to any of the communications and participate in any meetings held under this section. If after the Negotiation Period, Republic Steel fails to make a good faith effort to cure the non-compliance, OSHA may take enforcement action under Section 10(b) or Section 11(b) of the Act. Under no circumstances shall OSHA take action, or seek penalties, under both Section 10(b) and Section 11(b) for the same acts of non-compliance. If Republic Steel's non-compliance is based upon an objectively reasonable interpretation of the Agreement, OSHA is precluded from seeking any penalty for non-compliance under Section 10(b) or Section 11(b) of the Act for the non-compliance. Further, Failure-to-Abate penalties under Section 10(b) of the Act for non-compliance with the Agreement shall not begin to accrue until OSHA has given Final Notice of the non-compliance to Republic Steel in the manner set forth above.

If OSHA reaches a preliminary determination that Republic Steel is not in compliance with any obligations in Part IV.A. of this Agreement, OSHA may pursue penalties under Section 10(b) of the Act for such noncompliance. Such penalties shall not begin to accrue until OSHA has given Republic Steel notice of the non-compliance via email and mail in the manner set forth above.

Nothing in this Agreement shall limit Republic Steel's defenses or arguments provided under relevant law in an action for Failure-to-Abate.

**XXI.**

**No Limitation on Right to Enforce**

Nothing in this Agreement shall be interpreted or construed as limiting the Secretary's right to enforce provisions of the OSH Act, 29 USC §§ 651, *et seq.*

**XXII.**

**Non-Admission**

Except in proceedings or matters brought by or against the United States, neither this Agreement nor Republic Steel's consent to entry of a final order by the Commission pursuant to this Agreement constitutes an admission by Republic Steel of violations of the OSH Act, regulations, or standards promulgated thereunder, or the allegations contained within the Uncontested Citations, the Contested Citations, or the Hazard Alert Letters.

**XXIII.**

**No Effect on Rights Under BLA or NLRA**

Nothing in the Agreement shall supplement or supersede the rights of Republic Steel and the USW under the parties' current Basic Labor Agreement or the National Labor Relations Act.

**XXIV.**

**Service and Posting**

A. Republic Steel certifies that the names of all authorized employee representatives of affected employees are: United Steel, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union; and The International Union of Bricklayers and Allied Craftworkers.

B. Pursuant to OSHRC Rules 7 and 100, 29 C.F.R. Parts 2200.7 and 2200.100, Republic Steel served a copy of this Agreement on the following authorized employee representatives by

postage prepaid first class mail, by email, or personal delivery: David McCall, Director USW-District 1, 777 Dearborn Park Lane, Suite J, Columbus, OH 43085; and Brett Trissel, President, Bricklayers Local Union 6, 618 High Avenue NW, Canton, OH 44703.

C. Republic Steel certifies that there are no other unions representing the affected employees, except for those set forth above.

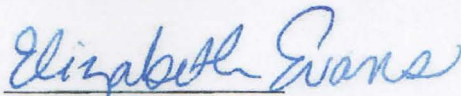
D. Pursuant to OSHRC Rules 7 and 100, 29 C.F.R. Parts 2200.7 and 29 C.F.R. 2200.100, Republic Steel served a copy of this Agreement on unrepresented employees by posting this document where the citation is required to be posted on May 1, 2014.

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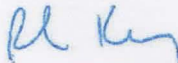
**FOR RESPONDENT:**



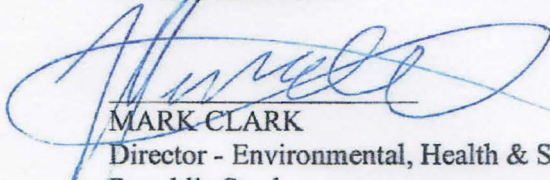
JAIME VIGIL  
President/CEO  
Republic Steel  
2633 Eighth St. NE  
Canton, OH 44704



ELIZABETH EVANS  
V.P., General Counsel & Secretary  
Republic Steel  
2633 Eighth St. N.E.  
Canton, OH 44704



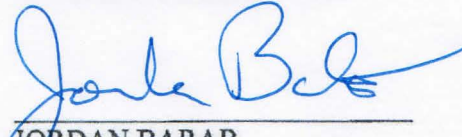
ROBERT KOURY  
Employment & Labor Counsel  
Republic Steel  
2633 Eighth St. N.E.  
Canton, OH 44704



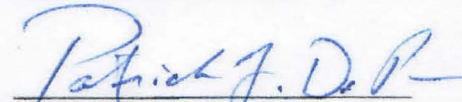
MARK CLARK  
Director - Environmental, Health & Safety  
Republic Steel  
2633 Eighth St. N.E.  
Canton, OH 44704

MICHAEL B. HUMPHREY II  
V.P., Canton-Lackawanna Division  
Republic Steel  
2633 Eighth St. N.E.  
Canton, OH 44704

**FOR COMPLAINANT:**



JORDAN BARAB  
Deputy Assistant Secretary of  
Labor, OSHA  
200 Constitution Ave  
Washington, D.C. 20210



PATRICK L. DEPACE  
OSHA Counsel  
Office of the Solicitor  
1240 East 9<sup>th</sup> Street, Room 881  
Cleveland, OH 44199

M. PATRICIA SMITH  
Solicitor of Labor

CHRISTINE Z. HERI  
Regional Solicitor

BENJAMIN T. CHINNI  
Associate Regional Solicitor

**FOR USW:**

DAVID MCCALL  
Director USW – District 1  
777 Dearborn Park Lane, Suite J  
Columbus, OH 43085

JIM FREDERICK  
Assistant Director  
Health, Safety & Environment  
Five Gateway Center – Room 902  
Pittsburgh, PA 15222

**FOR RESPONDENT:**

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**JAIME VIGIL**  
President/CEO  
Republic Steel  
2633 Eighth St. NE  
Canton, OH 44704

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**ELIZABETH EVANS**  
V.P., General Counsel & Secretary  
Republic Steel  
2633 Eighth St. N.E.  
Canton, OH 44704

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**ROBERT KOURY**  
Employment & Labor Counsel  
Republic Steel  
2633 Eighth St. N.E.  
Canton, OH 44704

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**MARK CLARK**  
Director - Environmental, Health & Safety  
Republic Steel  
2633 Eighth St. N.E.  
Canton, OH 44704

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**MICHAEL B. HUMPHREY II**  
V.P., Canton-Lackawanna Division  
Republic Steel  
2633 Eighth St. N.E.  
Canton, OH 44704

**FOR COMPLAINANT:**

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**JORDAN BARAB**  
Deputy Assistant Secretary of  
Labor, OSHA  
200 Constitution Ave  
Washington, D.C. 20210

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**PATRICK L. DEPACE**  
OSHA Counsel  
Office of the Solicitor  
1240 East 9<sup>th</sup> Street, Room 881  
Cleveland, OH 44199

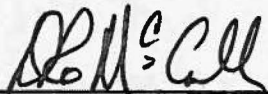
**M. PATRICIA SMITH**  
Solicitor of Labor

**CHRISTINE Z. HERI**  
Regional Solicitor

**BENJAMIN T. CHINNI**  
Associate Regional Solicitor

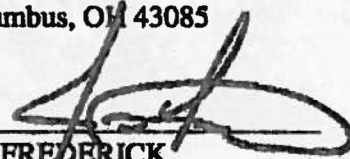
**FOR USW:**

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**DAVID MCCALL**  
Director USW - District 1  
777 Dearborn Park Lane, Suite J  
Columbus, OH 43085


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**JIM FREDERICK**  
Assistant Director  
Health, Safety & Environment  
Five Gateway Center - Room 902  
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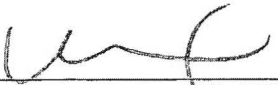
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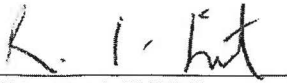
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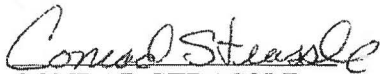
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