

NIX, PATTERSON & ROACH, L.L.P.
CAMERON SPRADLING
BENJAMIN L. BARNES, OF COUNSEL FOR BEELER, WALSH & WALSH

**BLACKWELL ZINC SMELTER PERSONAL INJURY AND PROPERTY
DAMAGE CONTRACT AND POWER OF ATTORNEY**

This agreement ("Agreement") is made the _____ day of _____, 20____,
between the following parties ("Parties"): _____

(collectively "Client") and **NIX, PATTERSON & ROACH, L.L.P., CAMERON SPRADLING, BENJAMIN L. BARNES, OF COUNSEL FOR BEELER, WALSH & WALSH** ("Attorneys"). In consideration of the mutual promises herein contained, the Parties agree as follows:

I. Purpose of Representation

1.1 Client retains and employs Attorneys to investigate Client's possible claim(s) against any person(s) who may be responsible for such claims in connection with or arising out of the following: regarding the investigation and prosecution of current and future personal injury and property damage claims on behalf of Client arising from any and all activity associated with the Blackwell Zinc Smelter facility in Blackwell, Kay County, Oklahoma ("Claims").

1.2 Client agrees that, after the investigation of Client's possible Claims, Attorneys shall have the right to withdraw as Client's attorney and terminate this agreement if Attorneys is unwilling to or unable to undertake representation of Client. If Attorneys deems it appropriate, Client retains and employs Attorneys to represent Client and to engage in any actions, including, but not limited to, filing suit in the jurisdiction where Attorneys deem appropriate, for the purpose of attempting to recover any damages and compensation to which Client may be entitled against any person(s) responsible for same, as well as attempt to compromise and settle all Claims of Client.

1.3 The scope of Attorneys' representation does not include the filing of any claims for worker's compensation, social security benefits, or claims for other state or federal benefits. The scope of Attorneys' representation does not include the handling of any subrogation claims by any person which have been, or may be, made against Client, except where expressly required by state or federal law.

1.4 In the event that Client's Claims involve an attempt to recover compensation relating to the death of an individual, Client acknowledges and understands that the scope of Attorneys' representation of said Client is limited to the purposes of pursuing a recovery based upon such Claims, and that Attorneys does not assume any responsibility for advising Client or any other party regarding the handling or administration of the estate and/or affairs of the deceased individual.

1.5 Client also acknowledges and understands that the scope of Attorneys' representation of said Client does not include responsibility for advising Client or any other party regarding the handling of Client's or any other party's duties with respect to the filing of state or federal income tax returns or the potential liabilities and consequences under state and federal income tax laws arising out of any recovery obtained for Client.

II. Attorneys' Fee

2.1 In consideration of Attorneys' services rendered and to be rendered as set out above, Client hereby assigns, grants, and conveys to Attorneys the following present undivided interest in the Claims:

40% of any recovery made for Client;

2.2 Client's assignment, grant, and conveyance to Attorneys of this undivided interest in the Claims is contractual in nature and creates a valid and subsisting lien for 40% of any recovery made for Client. This contract is executed, acknowledged, and delivered before any services have been rendered in expectation of compensation for which the lien created by this agreement is given. To secure the prompt payment of Attorneys' undivided 40% interest in any recovery made for Client, a contractual lien is hereby created and granted for the benefit of Attorneys upon any recovery made for Client.

2.3 Client understands that the Client is giving up at this time to the Attorneys the amount stated above, and that such percentage is of the total recovery or settlement before costs, expenses, or disbursements are deducted (and Client understands that all cost, expenses, and disbursements are paid out of the client's portion of the recovery, and not out of the Attorneys' portion). The term "recovery" is meant to include, but is not limited to, property, money, injunctive relief, and/or other benefits, including forgiveness of debt, obtained for or on behalf of Client(s) without limitation, common law damages, statutory damages (including any award of double or treble damages), exemplary or punitive damages, additional damages, interest, and court costs. To the extent the recovery is unliquidated, the value of the recovery means the value of the property or the benefit recovered as of the date of settlement or judgment.

2.4 If there is any type of settlement whereby the Client is to receive or be paid future payments, then the settlement will be reduced to present value, and the settlement will be arranged whereby there will be sufficient cash at the time of the settlement to pay the Attorneys' Fees which will be figured on the present value of the total settlement including the present value of future payments.

2.5 The interest assigned and conveyed to Attorneys is based upon the total amount recovered, and the fact that some portion of the amount recovered may be designated as "attorney's fees" by the court or settling party will not limit the compensation to be paid under this Agreement.

2.6 If a suit is filed in, or removed to, a court or tribunal or jurisdiction which requires by law or court order a different calculation for Attorneys' fees and/or the reduction of costs and expenses, the fees and costs set forth above shall be adjusted so as to comply with the law of such court or tribunal or jurisdiction.

III. Approval Necessary for Settlement

3.1 Attorneys will not settle the claims without first notifying Client and obtaining Client's consent and approval. However, Client will not make a settlement or offer of settlement without the approval of Attorneys.

3.2 Attorneys is appointed my attorney in fact and is hereby granted a limited power of attorney so that they may have full authority to prepare, sign, and file all legal instruments, pleadings, drafts, authorizations, and papers as shall be reasonable and necessary to prosecute and/or conclude this representation including settlement and/or reducing to possession any and all monies or other things of value due to the Client in connection with the Claims as fully as the Client could do so in person. Attorneys also is authorized and empowered to act as Client's negotiator in any and all settlement negotiations concerning the subject of this Agreement. This power of attorney is intended to make Attorneys my Attorneys in fact and give Attorneys the right to sign my name to all compromise settlement agreements, full or partial releases, indemnity agreements, and/or reducing to possession any monies or other things of value due the client under this claim as fully as Client could do so in person. This expressly includes the right of Attorneys to sign Client's name to any drafts or checks or any other negotiable instruments proffered on behalf of any defendant making any full or partial settlement in the case.

3.3 Client hereby authorizes Attorneys to negotiate a settlement of Client's claims in whatever manner, and using whatever negotiation strategy Attorneys deems appropriate. Client understands that Attorneys may, if appropriate, negotiate a settlement of Client's claims and the claims of other clients similarly situated, on an aggregate basis. However, no such settlement will be negotiated without providing Client a description of the claims resolved by the settlement, the total settlement fund, the amount to be received by Client, and the amount to be received by other clients who are qualified to participate in the settlement. Client also authorizes Attorneys to disclose the amount of Client's proposed settlement in such cases, as well as the nature of Client's damages and other factors relevant to the evaluation of appropriate settlement values to other cases, which are included in the aggregate of such cases. Client also understands and acknowledges that certain expenses will be incurred in a joint effort to handle such aggregate cases and authorizes Attorneys to prorate such expenses among all of the cases included in any such aggregate group.

IV. No Guarantee of Results

4.1 It is understood and agreed that Attorneys cannot warrant or guarantee the outcome of the case, and Attorneys has not represented to the Client that the Client will

recover any damages, compensation or other funds so desired. The Client has also been informed that obtaining a judgment does not guarantee that the opposing parties will be capable or willing to satisfy the judgment.

V. Court Costs and Expenses

5.1 Attorneys may advance any or all of the court costs and expenses that appear to the Attorneys to be reasonably necessary for the investigation, preparation, trial, and/or settlement of this matter. All such costs and expenses advanced or incurred by the Attorneys shall be deducted from the recovery obtained for the Client from the Client's portion of recovery. Attorneys' contingent fee shall be computed on the total recovery without deduction for cost, expenses, or disbursements.

5.2 The terms "court costs" and "expenses" include, but are not limited to: filing fees, court costs, expert fees (reading, without limitation, evaluation, reports, and/or testimony), consultant fees, postage, long distance telephone calls, fax transmissions or receptions, messengers, court reporter fees, record service fees, photocopying, preparation of exhibits and photographs, transportation and/or lodging expenses and parking, service of citation, investigative fees and expenses, court-mandated expenditures, specialized outside counsel fees and expenses (i.e., probate, taxation, bankruptcy), special staff, costs associated with collecting judgments, and expenses of a structured settlement, witness' fees and mileage, medical records, subpoenas, and all other reasonable and necessary costs and expenses which the Attorneys in its professional judgment determines to be reasonably needed for the prosecution and/or settlement of the Claims of the Client.

5.3 Client's agreement that all such costs and expenses advanced or incurred by the Attorneys shall be deducted from the recovery obtained for the Client from the Client's portion of recovery is contractual in nature and creates a valid and subsisting lien for all such advanced costs and expenses. This contract is executed, acknowledged, and delivered before any costs and expenses have been advanced or incurred by the Attorneys in expectation of repayment for which the lien created by this agreement is given. To secure the prompt payment of all such costs and expenses advanced or incurred by the Attorneys, a contractual lien is hereby created and granted for the benefit of Attorneys upon any recovery made for Client.

5.4 If Attorneys has represented the Client throughout the course of the litigation and does not obtain for Client a settlement or recovery, then the Client will not owe Attorneys a fee or have to pay back any of the above expenses that have been advanced by Attorneys, subject to any provisions set form in Section VI.

VI. Cooperation of Client/Termination of Representation/Backout Agreement

6.1 Client agrees to cooperate with Attorneys at all times. Client further agrees to keep Attorneys advised of Client's whereabouts (and provide changes of

address and telephone numbers), shall appear on reasonable notice, shall appear for all depositions and court appearances upon reasonable notice, and shall comply with all reasonable requests of Attorneys in connection with the preparation and presentation of the aforesaid Claims and causes of action of the Client, including, but not limited to, providing answers to discovery questions and appearing for all scheduled appointments and all matters scheduled by the court.

6.2 Attorneys may, at their option, withdraw from the case and cease to represent Client should Client fail to comply with any portion of this Agreement or should Attorneys decide that it cannot continue to be involved in the Claim. In the event that Attorneys terminates its representation of Client for Client's failure to comply with any portion of this Agreement, Client understands and acknowledges that Attorneys has a claim to recover its expenses and costs of litigation from Client.

6.3 Client has the right to terminate Attorneys' representation of Client at any time prior to the conclusion of Attorneys' representation of Client under this Agreement. However, in the event that Client exercises such right of termination, Client understands and acknowledges that Attorneys has a claim to recover its expenses and costs of litigation from Client, and its Attorneys' fees in accordance with Sections II and V of this Agreement. Client also acknowledges and agrees that in the event said Client does not elect to file suit or continue in said suit for any reason whatsoever, or causes Attorneys to terminate relationship, then said Client will reimburse Attorneys for all expenses relating to the case expended by Attorneys as of such date.

VII. Association of or Assignment to Other Attorneys

7.1 Attorneys may associate any other attorney in the representation of the claims. Further, Attorneys may assign this matter and this Agreement to other attorneys of Attorneys' choice.

7.2 **Co-Counsel Relationship.** Client understands that the attorneys of **NIX, PATTERSON & ROACH, L.L.P., CAMERON SPRADLING, BENJAMIN L. BARNES, OF COUNSEL FOR BEELER, WALSH & WALSH** may be sharing attorneys' fees and expenses with other lawyers or law firms and Client consents to any such fee and expense sharing agreement. Client further understands that any such fee and expense sharing agreement reached between the attorneys of **NIX, PATTERSON & ROACH, L.L.P., CAMERON SPRADLING, BENJAMIN L. BARNES, OF COUNSEL FOR BEELER, WALSH & WALSH** and any other lawyers or law firms will NOT change in any manner the contractual obligation as detailed herein that Client has agreed to pay in the prosecution, handling and collection of this matter.

VIII. Choice of Law/Choice of Forum

8.1 This Agreement shall be construed under and in accordance with the laws of the State of Oklahoma, and all obligations of the parties created hereunder are performable in Oklahoma County, Oklahoma. The Parties hereby agree, understand, and

acknowledge that any and all suits or claims arising out of this Agreement shall be filed solely in Oklahoma state court in district court in and for the judicial district, Oklahoma County, Oklahoma and that such court will have exclusive jurisdiction over any claims arising out of or concerning any term, part or provision of this agreement.

IX. Parties Bound

9.1 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.

X. Legal Construction

10.1 In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

XI. Prior Agreements Superseded

11.1 This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties with respect to its subject matter.

11.2 Client certifies and acknowledges that Client has had the opportunity to read this Agreement, has been provided a copy of this Agreement, and has knowingly and voluntarily entered into this Agreement fully aware of its terms and conditions. Client further certifies and acknowledges that the decision to pursue these claims and to employ Attorneys is solely Client's independent decisions after carefully considering the matter.

XII. No Assignment of Interest in Claim to Others

12.1 Client certifies and represents to Attorneys that Client has revoked all prior agreements with other attorneys, if any, and that client has not assigned, sold or transferred any interest in the Claims except to the extent said Claims are assigned to Attorneys as specified in Section II herein.

EXECUTED on the day and year noted above.

CLIENT(S) SIGNATURE(S):

ATTORNEY(S) SIGNATURE(S):

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