

September 28, 2016

**2016
POLLUTION LIABILITY INSURANCE SPECIFICATIONS
THE PORT OF HARLINGEN**

Due Date: Thursday, November 17, 2016

Prepared By:

RWL Group
Suite 810
300 N. Coit Road
Richardson, Texas 75080-5456

Phone: 972-907-9095
Fax: 972-907-9198
E-Mail: rwlgroup@rwlgroup.com
Website: www.rwlgroup.com

THE PORT OF HARLINGEN

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SECTION I GENERAL REQUIREMENTS AND INSTRUCTIONS

A. **PURPOSE**

The Port of Harlingen is seeking quotations for pollution and remediation legal liability insurance protection. The Port is prepared to accept retentions or deductibles compatible with its financial strengths, provided that the credits extended justify the assumption of the financial risk. The Port of Harlingen will consider a plan that deviates from options listed if it offers overall cost benefits. The insurance is to take effect on January 1, 2017.

B. **NOTICE**

1. The information contained in these specifications is confidential and is to be used only in connection with preparing proposals for insurance.
2. The Port of Harlingen reserves the right to accept or reject, in part or in whole, any portion of the proposal program when, in its judgment, such action is deemed necessary and in the best interests of the insured. The Port also reserves the right to waive or dispense with any of the formalities contained herein.
3. Each proposer is asked to submit quotations on the basis of the specifications contained herein. Alternative proposals will also be considered, provided the alternatives are clearly explained. All deviations from the specifications must be clearly identified and explained in the appropriate proposal form.
4. The underwriting information contained herein is believed to be accurate and up-to-date, but is not intended to be an express or implied warranty. Requests for additional information should be directed to Mr. Walker Smith (see address information in D., Communication).

C. **TIMETABLE**

1. The specifications will be available for proposers on or about Wednesday, September 28, 2016, from Mr. Walker Smith, Port Director, Port of Harlingen, 24633 Port Road, Harlingen, Texas 78550. As an alternative, the specifications can be downloaded from the Port's website (www.portofharlingen.com).
2. A Market Request Form is included in this packet. This request form must be completed and e-mailed/mailed/faxed to RWL Group (see address information in D., Communication). The form is due by 5:00 p.m., on Wednesday, October 5, 2016. A copy should also be sent to Mr. Smith at the Port of Harlingen.
3. RWL Group will make market assignments beginning on Thursday October 6, 2016.
4. Two (2) copies of each proposal must be delivered to the Port of Harlingen, 24633 Port Road, Harlingen, TX 78550 by no later than 2:00 p.m. on Thursday, November 17, 2016, in a sealed envelope. Each envelope should be clearly labeled POLLUTION LIABILITY INSURANCE PROPOSAL." In addition, one copy of each proposal must be delivered to RWL Group, 15201 Lucian Street, Austin, Texas 78725 by no later than 2:00 p.m. on Thursday, November 17, 2016 in a sealed envelope similarly labeled.

When proposals are sent by mail, the proposer shall be responsible for their delivery by the date set for the closing of proposal acceptance. If the mail is delayed beyond the date set for the closing, proposals thus delayed may not be considered.

5. Interview(s) with viable proposer(s) will be held via telephone conference on Monday, November 28, 2016
6. Selected proposers will be notified subsequent to the December 5, 2016 Board meeting, but in no event later than the week of December 12, 2016.
7. Binders are to be provided by no later than December 30, 2016.
8. Policies are to be delivered to Mr. Walker Smith at the Port of Harlingen by no later than February 1, 2017.

D. COMMUNICATION

1. Requests for clarification or interpretation of the specifications should be submitted, in writing, to:

Carolyn A. Miller, CPCU, Senior Consultant
RWL GROUP
300 N. Coit Road, Suite 810
Richardson, Texas 75080-5456
15201 Lucian Street
Austin, Texas 78725
PHONE: 972-907-9095; 512-904-0048 FAX: 972-907-9198
E-mail: carolyn@rwlgroup.com

2. Mr. Walker Smith shall represent the Port relative to all matters pertaining to these specifications and contracts in conjunction herein. Inspections may be coordinated through Mr. Smith who can be contacted as follows:

Mr. Walker Smith, Port Director
Port of Harlingen
24633 Port Road
Harlingen, TX 78550
PHONE: 956-423-0283 FAX: 956-423-0284
E-mail: walker@portofharlingen.com

E. PROPOSALS

1. Proposals are to be clearly explained and identified. The proposal specifications contain proposal forms. These forms should be completed by the proposer and attached to the proposal. Unless otherwise stated, all blank spaces on the proposal page or pages, applicable to subject specifications, must be correctly completed. All costs, including optional programs, must be clearly stated and summarized. Exceptions or deviations from the specifications must be explicitly identified in the Exception Form contained in the specification package. Failure to follow these instructions may be grounds for disqualification of a proposal.

Please note: If no exceptions are listed in the Exception Form at the end of each section, it will be presumed that the proposal contemplates coverage. Also, it is mandatory for all proposers to list in the exceptions any material restriction of coverage that may be proposed by insurers. The Exception Form should be used to list any specifications that cannot be complied with for legal reasons.

2. Proposers may withdraw their proposals at anytime prior to the time specified as the closing time for acceptance of proposals. However, no proposer may withdraw or cancel their proposal after the closing time for submission.
3. If any person who is submitting a proposal is in doubt as to the true meaning of any part of these specifications, he/she may submit to RWL Group a written request for interpretation thereof. The person submitting the request will be responsible for its prompt delivery to RWL Group. As to the interpretation of the specifications, the decision of RWL Group will be final. All questions regarding the specifications, or regarding information deemed necessary in order to respond to the RFP, must be submitted by no later than close of business on Thursday, November 3, 2016. Responses to questions will be made in writing and distributed to all participants, as appropriate. ***Oral explanations will not be binding.***
4. The Port of Harlingen will accept one of the proposals, or a combination of several parts of more than one of the proposals, or reject all proposals as soon as possible after the time for close of proposals.

F. QUALIFICATIONS

1. AGENT:

All agents submitting proposals for this insurance must meet the following minimum qualifications:

- a. The agency must be duly licensed to do business in the State of Texas.
- b. The agency must have insurance for agent's errors and omissions with a limit of at least \$1,000,000 per-occurrence. A certificate evidencing coverage must be included with the proposal.

If any non-admitted, excess, or surplus lines carriers are used in writing any coverages for the Port, please include a detailed explanation of all the financial and managerial parameters of the company(ies).

- c. The agency must have been in business for at least five (5) years.
- d. The agency must assign a minimum of one qualified account representative to service the Port of Harlingen. This representative should have several years of experience in public entity property and liability lines and/or hold an insurance designation. Please include the resumes of all proposed account representatives in the proposal.

2. INSURER:

- a. Although proposals will be accepted from carriers regardless of their *A.M. Best* rating (or whether or not they are rated) more favorable consideration will be given to those proposals submitted by carriers with ratings of at least A-:VII in the latest edition of *A.M. Best's Key Rating Guide* (property/casualty edition).
- b. Insurers shall be duly licensed, or approved non-admitted carriers, and comply with all applicable state insurance laws and requirements or duly constituted applicable insurance regulatory authorities.
- c. Local claims, underwriting and engineering capabilities will be considered a plus. If independent servicing firms are to be used for claims or safety engineering services, their names and addresses must be shown.

- d. Quotations will be accepted from intergovernmental risk sharing pools organized in accordance with Article 4413 (32c), Texas Interlocal Cooperation Act. Self-insurance pools must include a current financial statement (Balance Sheet and Statement of Operations) and the most recent audited financial statements, including the auditor's opinion, plus complete particulars about its reinsurance programs.

G. ASSIGNMENT OF MARKETS (Does Not Apply To Direct Writers)

The market allocation procedure is applicable to situations when more than one agent wants to obtain quotes from the same insurance group. The Port of Harlingen reserves the right to assign the use of any given insurance carrier with respect to this insurance to a specific agent or broker to avoid multiple contacts with a single insurance underwriter. Your cooperation is asked in helping obtain as wide a representation of potential insurers as is presently possible through the following method:

1. Each agent (or company) participating in the proposal process is asked to submit an initial list of insurers with which he/she would like to work in preparing proposals for the requested programs. ***This list should be ranked in order of preference.*** A prepared form for these requests is attached entitled "Market Request Form." Please list no more than three choices per line of coverage.
2. The Market Request Form is due by 5:00 p.m. on Wednesday, October 5, 2016. This form should be completed and e-mailed/mailed/faxed to Carolyn A. Miller at RWL Group. A completed copy should also be sent to Mr. Walker Smith at the Port of Harlingen.
3. RWL Group will begin assigning markets no later than Thursday, October 6, 2016, based on the requests received at that time.
4. Insurance markets will be assigned in accordance with the following principles:
 - a. All market awards will endeavor to follow the requests in the order of priority indicated by the agent. At the discretion of the Port of Harlingen and RWL Group, the order of choice between agents requesting the same markets will be determined by the order in which the Market Request Forms are received by RWL Group. ***No markets are to be reserved until approved by RWL Group. Failure to follow these rules may result in disqualification of your proposal.***
 - b. Requests for insurance markets received after the date indicated will be honored only to the extent that such companies have not previously been requested and assigned.
5. No more than one agent may contact any one insurance group. To assist us in achieving this, all requests for carriers that are part of a group should be made in the name of the group and ***not the individual carrier.*** Market requests for other than insurance companies or groups will not be acceptable; for example, if the company is National Union, please show your choice as AIG Group. Refer to Item 5 in Section II (General Underwriting Requirements) with regard to non-admitted carriers that may be part of a group. In the case of E&S markets, please show the name of the carrier group; ***do not list the individual carrier or the intermediary.***

6. The Port of Harlingen reserves the right to assign additional markets as may be appropriate, if not in conflict with previous assignments. If additional markets are desired, the agent must secure prior approval from RWL Group before approaching said markets. Additional markets may be requested beginning Friday, October 7, 2016. Additional markets must be requested in writing and must not be contacted or reserved without approval from RWL Group. **Failure to follow these rules may result in disqualification of your proposal.**
7. If full insurance coverage will not be provided by one insurer, the percentage of the amount of coverage to be provided by each insurer must be shown.
8. If RWL Group or the Port of Harlingen feels that all viable markets have not been approached, a letter will be sent to all providers listing these additional markets. Each provider will be permitted to choose **one** additional market from this list on a first-come, first-served basis, via a faxed or written request

H. SELECTION CRITERIA

The Port of Harlingen reserves the right to award the subjects of the proposal, in whole or in part, to those proposers who demonstrate professional competence in submitting proposals that satisfy cost, coverage, and servicing criteria. Insurance proposals will be carefully evaluated in terms of cost effectiveness and coverage, and for compliance with the insurance, risk financing, and servicing criteria as contained in the specifications. The insured will consider the merits of each proposal, whether on a consolidated or fragmented basis. Award will be made to the proposer submitting the lowest, best, and most responsible proposal.

I. SERVICING CRITERIA

The Port of Harlingen strongly desires to receive personalized and timely risk management services of the highest professional quality from the selected proposer. Proposers who demonstrate the professional capability, expertise, and experience in handling an account the size of the Port of Harlingen will receive favorable consideration. Servicing criteria will be evaluated in terms of such considerations as:

1. Number of years in business.
2. Size of agency and staff.
3. Experience of staff.
4. Professional servicing capability; i.e., loss control, claims management, information storage systems, underwriting, exposure and hazard identification, etc.
5. Capability and willingness of agency resources to personally respond to the professional needs of the insured in a timely manner.
6. Technical skills of staff with respect to insurance coverages and knowledge of certain internal risk management administrative considerations (insurance budgets, premium allocations, contractual risk transfer, legal trends, etc.).

Appropriate emphasis will be placed on these considerations with respect to the evaluations of the insurance proposals.

Each proposer is therefore asked to submit a written addendum to his proposal which responds to this section ("Servicing Criteria") and which specifically identifies the names of personnel who will be responsible for servicing the Port of Harlingen. The written addendum should include the qualifications and experiences of account executive personnel and technical support persons who will be directly responsible for servicing the Port of Harlingen. A proposed plan should be clearly explained as to how you intend to deliver the requested services in a personalized and timely manner. **Please use the Servicing Criteria Form, which appears at the end of Section I for responding to this item.**

J. DISQUALIFICATION AND REJECTION OF PROPOSALS

Failure to comply with the requirements or the procedures set forth herein, or to satisfy the insurance and servicing criteria as set forth in the specifications, may result in disqualification of the proposer or rejection of the insurance proposal. ***It is not intended that technical exceptions to the specifications will, in and of themselves, disqualify proposers, unless the exceptions are deemed to be material. The Port of Harlingen reserves exclusive right to make determination as to what is or is not material.*** The Port reserves the right to reject a proposer if the proposer is in arrears on existing contracts.

K. LEGAL

All proposers are expected to comply with all federal, state and local insurance laws and regulations relative to the preparation and submission of insurance proposals. All proposals that are submitted will be presumed to be in compliance with all applicable laws.

L. AUTHORIZED SIGNATURE

All proposal forms must be signed by persons who have the legal authority to bind the insurer to the insurances that are proposed.

M. EVALUATION CRITERIA

The selection of a proposal for insurance will be made after a careful evaluation of the proposals received. Each proposal will be evaluated for acceptability, with emphasis on the various factors enumerated in the table outlined below. Each factor is assigned a numerical score. The scores will be used to develop a list of potential providers with whom negotiations may be conducted.

Evaluations will be based on the following criteria, for which up to 100 points may be awarded. ***A total evaluation of less than 60 points will invalidate a proposal.***

Criteria	Maximum Points
Public Sector Experience =	5
References =	5
Responsiveness to Specifications =	50
Cost =	40
Total Possible Points =	100

The Port will evaluate qualifications and select the most responsible, responsive proposal, subject to a fair and reasonable compensation.

N. CONTRACT

All agents or service providers will be required to execute a mutually acceptable contract with the Port of Harlingen.

O. VENDOR CONTACT

No vendor is authorized or permitted to contact any Board Member during the RFP process.

PORT OF HARLINGEN MARKET REQUEST FORM

Agency: _____

Name of Agent: _____

Address: _____

Telephone #: _____

Fax #: _____

E-Mail: _____

RANKED PREFERENCE	POLLUTION LIABILITY
1.	
2.	
3.	

PORT OF HARLINGEN
SERVICING CRITERIA FORM

Please use this form to respond to Items F and I of Section I. Each proposer must clearly and specifically address all of the criteria requested in these sections.

PORT OF HARLINGEN
CLAIMS SERVICES FORM

1. What is the location of the office that will be handling the Port of Harlingen's account?

2. Is there 24-hour claims service?

_____ Yes _____ No

3. Will the Port of Harlingen be consulted on the disposition of all claims over \$5,000?

_____ Yes _____ No

4. Will the Port of Harlingen receive detailed quarterly loss runs which show each claimant's name, date of accident, description of injury, paid, reserved and total incurred losses by line of coverage and department, plus a summary of aggregate losses for each previous year in which you provided the coverage?

_____ Yes _____ No

5. Please attach copies of claims reporting guidelines with which insured must comply and samples of all claims reporting forms used.

6. Please provide a description of the specific loss control services that will be available to the Port of Harlingen, and indicate any additional fees for such services.

7. Please provide any additional information you feel would be relevant.

8. Please provide a specimen copy of your MIS Claims Report.

PORT OF HARLINGEN
PROPOSAL RATING SUMMARY

This form is for use by the Port. Proposers, please enter your name in the space provided.
Do not complete anything else on this form. Thank you.

Name of Proposer: _____

Criteria	Points
Public Sector Experience (5)	
References (5)	
Responsive to Specifications: (50)	
Cost: (40)	
Total Points	

Proposal Recommendations: _____

Justifications: _____

Authorized Signature

Company

Date

SECTION II

A. GENERAL UNDERWRITING REQUIREMENTS

APPLICABLE TO ALL LINES OF COVERAGE

1. **Named Insured:** The named insured for all coverages shall be:

Port of Harlingen, Texas, and all elected and appointed officials, all employees of the Port, and members of Boards, Commissions, Committees, Trustees, and Organizations of the Port, all volunteers and members of volunteer organizations while acting on behalf of the Port.

2. **Cancellation and Renewal:**

- a. A minimum cancellation provision of sixty (60) days is requested in all policies in lieu of customary provisions.
- b. A minimum of sixty (60) days' notice-of-intent not to renew is also requested.

3. **General Insurance Provisions and Extensions:**

- a. The effective date of the insurance program is to be January 1, 2017.
- b. The notice-of-claims provisions in all policies should be modified to the extent that knowledge of actual or potential claims by the Port commences upon receipt of such information or advice by the Port Director.
- c. All policies should be endorsed to the effect that failure to disclose all facts at the inception date of the coverage shall not prejudice the insurance, provided such failure is due to unintentional error or omission.
- d. Automatic coverage for newly acquired or formed organizations is requested for a minimum of ninety (90) days, except where otherwise extended by the provisions of the policy in excess of ninety (90) days, subject to proper reporting to underwriters and, if applicable, payment of additional premium.
- e. A three-year program is requested, preferably with fixed rates. Alternatively, one-year programs will be considered. Please include options for two one-year renewals, and describe how rates may be affected by annual rating reviews.

4. **Cash Flow and Rating:**

To the extent that it is consistent with underwriting practices, the Port desires, and will give consideration to, the following criteria:

- a. Payment of annual premiums in monthly or quarterly installments.
- b. Participating and flat dividend programs.
- c. Flat (unauditable) premium basis is preferred. If not available, please state the variable upon which an audit will be based.

5. **Non-Admitted Insurance:***

If non-admitted insurance is quoted, the following criteria should be met:

- a. A minimum *A.M. Best* Rating of A-:VII is preferred.
- b. The carrier **must** be on the NAIC approved list and must be acceptable to the Texas Insurance Department.
- c. A Cut-Through Endorsement **must** be contained in the policy.
- d. A Service-of-Suit Endorsement **must** be contained in the policy.
- e. **Must** be in compliance with surplus lines laws.

6. **Excess Insurance Layers:***

Any line or lines of coverage containing excess layers in any amounts must be written on a following-form basis, per the wording below:

"It is hereby understood and agreed that this policy will follow all the terms, provisions, definitions and insuring agreements of the controlling underlying insurance(s), except only as respects premiums and limits, as may be applicable."

7. **Miscellaneous**

The Port desires to maintain insurance coverages for the lines and exposures addressed by the specifications. Conventional programs from the commercial insurance sector, as well as other types of programs (such as insurances which are available by reason of the Federal Risk Retention Act), are desired. In the event proposals are made from risk retention groups, interlocal self-insurance pools or similar risk financing vehicles, financial and actuarial particulars and specific reinsurance information must also be submitted for the current and prior three years at a minimum.

8. **Policy Forms**

A copy of a specimen policy form and all applicable endorsements must be provided for each line of coverage/program quoted.

PROPOSAL FORM

APPLICABLE TO ALL LINES OF COVERAGE

PLEASE INDICATE IF EACH PROPOSED POLICY INCLUDES THE FOLLOWING:

1. Named Insured as outlined in Section II, 1. _____ Yes _____
No

2. Effective date of insurance program is January 1, 2017 _____ Yes _____
No

3. Sixty-day cancellation and non-renewal notice _____ Yes _____
No

4. Notice of claims provisions as outlined in Section II, 3.b _____ Yes _____
No

5. Failure to disclose provision as outlined in Section II, 3.c _____ Yes _____
No

6. Automatic coverage for new organizations per Section II, 3.d _____ Yes _____
No

7. Indicate term of program(s) quoted (1-year or 3-year) and any special renewal provisions

8. Specify payment terms and any available installment plans _____

9. Are specimen policy forms and endorsements included for **all** lines of insurance?

_____ Yes _____ No

Authorized Signature

Company

Date

B. POLLUTION AND REMEDIATION LEGAL LIABILITY

A Pollution and Remediation Legal Liability policy is requested with an inception date of January 1, 2017, per the application in the Underwriting Section with respect to designated premises. A railroad spur operated by Union Pacific Railroad runs through a portion of the Port of Harlingen and is used by some of the Port's tenants. Used in the manufacture of fertilizer, some of the tenants have delivered railroad cars carrying anhydrous ammonia. These tenants hire specialized contractors to off-load the anhydrous ammonia and mix it with other ingredients to make fertilizer. Union Pacific Railroad, delivers and spots the loaded cars, and removes the empty cars once the off-loading and mixing operations are completed. The purpose of the requested coverage is to protect the Port against any pollution events arising out of all operations at the described premises. The coverage is to apply to all exposures on land but not in the channels.

1. Limits of Liability – Please quote Environmental Legal Liability coverage at a limit of \$25,000,000 each pollution condition/\$25,000,000 annual aggregate. These limits are required by contract with Union Pacific Railroad (see Exhibit B).
2. Deductible – Please quote optional deductibles of \$10,000, \$25,000, and \$50,000 per environmental incident.
3. Coverage is to include bodily injury and property damage liability, on and off the premises, including loss of use of damaged property or of property that has not been physically injured or destroyed with respect to pollution conditions that originate on, under, or from the insured premises from any source.
4. Coverage should be written on a “pay-on-behalf-of” basis.
5. Coverage is to include remediation and restoration costs for third-party liability and first-party obligations
6. Coverage is to include defense, including costs and expenses incurred in the investigation, defense or settlement of claims.
7. The insurance must apply to the named insured with a severability of interest provision included.
8. Union Pacific Railroad is to be included as an additional insured per ISO CG 2026 or its equivalent. Contractual liability coverage is requested and may be in the form of contractual liability for railroads per ISO CG 2417 or its equivalent.
9. Coverage is to include a waiver of subrogation in favor of Union Pacific Railroad.
10. Notice of a circumstance that could give rise to a claim is to be considered as meeting the notice of claim requirements.
11. Include coverage for punitive damages where not barred by law or statute.
12. Quote coverage with no retro date (full prior incidents). If the coverage cannot be quoted without a retro date, a retro date of 01/01/2014 is preferred. Alternative retro date(s) will be considered.

13. Include a minimum twelve (12)-month extended reporting period option with a bilateral trigger.
14. A minimum of sixty (60) day notice of cancellation is to be included; ninety (90) is preferred.
15. Include coverage for disaster response expense, including evacuation expense.
16. Include coverage in the per event limit for business interruption and extra expense.

PROPOSAL FORM FOR POLLUTION AND REMEDIATION LEGAL LIABILITY

1. Proposed Insurer _____
2. Indicate premium for the following limits of Pollution and Remediation Legal Liability limits:

Per-Event/Aggregate Limit	Deductibles			
	\$10,000	\$25,000	\$50,000	Other
\$25,000,000/\$25,000,000				
0				

3. Does coverage include bodily injury and property damage liability on and off the premises with respect to pollution conditions that originate on, under, or from the insured premises from any source?

_____ Yes _____ No
4. Does coverage include loss of use of damaged and undamaged property?

_____ Yes _____ No
5. Is coverage written on a "pay-on-behalf of" basis? _____ Yes _____ No
6. Does coverage include remediation and restoration costs for third party liability and first party obligations?

_____ Yes _____ No
7. Is coverage provided for pollution events that commence prior to this coverage inception but unknown to the Port as of the inception date?

_____ Yes _____ No
8. Is coverage quoted without a retro date? _____ Yes _____ No
 If no, what is the retro date quoted? _____
9. Does coverage include defense, including cost and expenses incurred in the investigation, defense and settlement of claims?

_____ Yes _____ No
10. Does coverage include a severability of interest provision?

_____ Yes _____ No
11. Is punitive damage covered where not barred by law or statute?

_____ Yes _____ No
12. Is Union Pacific Railroad included as an additional insured as specified with a waiver of subrogation in favor of Union Pacific Railroad?

_____ Yes _____ No
13. Is contractual liability included?

_____ Yes _____ No

14. Is notice of circumstance that could give rise to a claim considered as meeting the notice of claim requirement?

_____ Yes _____ No

15. Is coverage included for disaster response expense, including evacuation expense?

_____ Yes _____ No
If yes, at what limit? _____

16. Is coverage included for business interruption and extra expense in the per event limit?

_____ Yes _____ No

17. Is a 12-month extended reporting period offered with a bilateral trigger?

_____ Yes _____ No

18. Please indicate if premium quoted is flat or auditable and composite rate.

19. Please indicate method of premium payment (monthly, quarterly, annually, etc.).

20. Indicate the term of the coverage. _____

If more than one year, are rates fixed? _____ Yes _____ No

21. Are specimen policy forms and endorsements included? _____ Yes _____ No

Authorized Signature

Company

Date

EXCEPTION FORM FOR POLLUTION AND REMEDIATION LEGAL LIABILITY

Please use this page to explain any differences between the specification requirements and your proposal. This form must list all exceptions/additions to the specifications by line of coverage. Failure to list exceptions accurately could result in disqualification and rejection of your proposal.

Authorized Signature

Company

Date

Exhibit I – Specimen Pollution Application

Exhibit II – Industry Track Agreement