

**STIPULATION AND SETTLEMENT AGREEMENT**

This STIPULATION AND SETTLEMENT AGREEMENT, dated as of the \_\_th day of December 2013 (the "Agreement"), is among Alfred T. Giuliano, Chapter 7 Trustee of the Estate of National Envelope Corporation – East, Successor by Merger with National Equities Corporation (the "Trustee"), Linde LLC f/k/a Linde, Inc., f/k/a The BOC Group, Inc., f/k/a Airco, Inc., f/k/a Air Reduction Company, Inc. (collectively, "Linde"), and the State of New Jersey, Department of Environmental Protection ("NJDEP"). (The signatories to this Agreement are referred to singularly as a "Party" and collectively as "Parties" to this Agreement.)

**WITNESSETH:**

WHEREAS, NEC Holdings Corp. and its affiliates (the "NEC Debtors," as further defined in subsection 1.11 herein) commenced their respective bankruptcy cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code on June 10, 2010 in the bankruptcy case styled *In re NEC Holdings Corp., et al.*, Bankruptcy Case No. 10-11890 (Bankr. D. Del.), which was subsequently converted to a chapter 7 bankruptcy proceeding on December 13, 2011 (the "NEC Bankruptcy Case," as further defined in subsection 1.10 herein);

WHEREAS, the NEC Debtors filed an adversary proceeding, Adv. Pro. No. 11-51129 (Bankr. D. Del.) (the "Adversary Proceeding," as further defined in subsection 1.2 herein) in the NEC Bankruptcy Case against Linde and its predecessors seeking cost recovery under the Comprehensive Environmental Response, Compensation and Liability Act, declaratory relief that Linde is liable for cost recovery under the Comprehensive Environmental Response, Compensation and Liability Act, contribution under the New Jersey Spill Compensation and Control Act, and statutory contribution for response costs incurred and to be incurred by the NEC Debtors with respect to a facility, located at 400 Clermont Terrace in Union, New Jersey (the "Union Facility," as further defined in subsection 1.1 herein), and Linde denied any liability to the NEC Debtors and asserted counterclaims against the NEC Debtors;

WHEREAS, the Adversary Proceeding was transferred from the United States Bankruptcy Court for the District of Delaware to the United States District Court for the District of New Jersey in the case styled *NEC Holdings Corp., et al. v. Linde, LLC, et al.*, Civil Action No. 11-03457 (part of the "Litigation," as further defined in subsection 1.8 herein);

WHEREAS, the Trustee, by operation of the conversion of the NEC Bankruptcy Case from a chapter 11 proceeding to a chapter 7 proceeding, became the successor to the NEC Debtors for all matters, including, but not limited to, all rights with respect to the NEC v. Linde Case, in the case styled *Alfred T. Giuliano v. Linde LLC, et al.*, Civil Action No. 11-3457 (the "Litigation," as further defined in subsection 1.8 herein);

WHEREAS, in the Litigation, the Trustee filed a First Amended Complaint, in which he asserted, *inter alia*, that he would continue to incur response costs at the Union Facility in the future in his own right and as assignee of the purchaser of the Union Facility, EnviroFinance Group, LLC ("EFG"), and Linde filed an Answer, Amended Counterclaim, and Third-Party Complaint in which Linde asserted claims against third parties, including J&J

Landscaping & Design, LLC, the Joint Meeting of Essex and Union Counties, the Township of Union, Elizabethtown Gas Company, and Tobar, Inc., d/b/a Whitman;

WHEREAS, the State of New Jersey, Department of Environmental Protection (the "NJDEP" as further defined in subsection 1.14 herein), though not currently a party to the Litigation, is a party to this Agreement, has advised Linde and the Trustee that it has or may have claims against Linde and the Trustee pursuant to the New Jersey Spill Act and CERCLA, including, but not limited to, cost recovery of cleanup, removal, remediation, and response costs related to the Union Facility, Natural Resource Damages claims, penalties, and treble damages;

WHEREAS, Linde and NJDEP wish to resolve all claims that the NJDEP has or could have in the future against Linde and the Trustee relating in any way to the environmental contamination at the Union Facility and any contamination that has or may in the future emanate therefrom;

WHEREAS, the Trustee and Linde, without admitting any responsibility or liability with respect to the Union Facility or to each other, wish to resolve all claims that have been or could be asserted by and among them in the Litigation;

WHEREAS, Linde, pursuant to this Agreement, is paying a fixed and specific collective sum to fully, completely and finally settle its alleged liability for any and all Claims of the Trustee and the NJDEP relating in any way to the Union Facility, and to be dismissed from the Litigation with prejudice, and for other and valuable consideration delineated herein;

WHEREAS, the Trustee, Linde and the NJDEP agree that the NJDEP shall intervene in the Litigation for the purpose of resolving any and all Claims that it may have against Linde and the Trustee, receiving a certain settlement amount in exchange for that release of liability and other consideration granted to Linde and the Trustee, and obtaining the Court's approval and entry of a Stipulation and Order of Dismissal With Prejudice substantially in the form and incorporating the terms set forth in Exhibit "A" to this Agreement ("Stipulation of Dismissal with Prejudice"); a Stipulation and Order of Dismissal Without Prejudice substantially in the form and incorporating the terms set forth in Exhibit "B" to this Agreement ("Stipulation of Dismissal Without Prejudice"); and a Consent Order substantially incorporating the terms set forth in this Agreement ("Consent Order");

WHEREAS, this Agreement is subject to approval by the United States Bankruptcy Court for the District of Delaware in the NEC Bankruptcy Case, and approval by Consent Order of the United States District Court in the Litigation, which Consent Order is intended by the Parties to constitute a judicially-approved settlement of liability to the State of New Jersey within the meaning of N.J.S.A. 58:10-23.11f.a.(2)(b) and within the meaning of 42 U.S.C. §§ 9601 *et seq.* and under common law for the purpose of providing contribution protection to Linde as provided herein;

WHEREAS, the Parties stipulate and agree that they have negotiated this Agreement in good faith and the implementation of this Agreement and entry of the Stipulation of Dismissal With Prejudice, the Stipulation of Dismissal Without Prejudice, and the Consent

Order will allow the Parties to avoid continued, prolonged and complicated litigation in a manner that is fair, reasonable, and in the public interest;

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein, the Parties hereto agree as follows:

**1. Definitions.**

Whenever terms listed below are used in this Agreement, the following definitions shall apply:

1.1. The term "Union Facility" shall mean the facility located at 400 Clermont Terrace in Union, New Jersey, including the land, the subsurface, and the groundwater beneath the land, and all areas, media, and off-site properties impacted by any Hazardous Substance on, beneath, or emanating from the facility, whether located on or under the facility or on other off-site properties.

1.2. The term "Adversary Proceeding" shall mean the Adversary Proceeding filed by the NEC Debtors against Linde in the NEC Bankruptcy Case, in which the NEC Debtors seek cost recovery under the Comprehensive Environmental Response, Compensation and Liability Act, declaratory relief that Linde is liable for cost recovery under the Comprehensive Environmental Response, Compensation and Liability Act, contribution under the New Jersey Spill Compensation and Control Act, and statutory contribution for response costs incurred and to be incurred by the NEC Debtors with respect to the Union Facility, which is Adversary Proceeding No. 11-51129 in the NEC Bankruptcy Case.

1.3. The term "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 *et seq.*

1.4 The term "Claims" shall mean any and all actual, potential, assigned, threatened or alleged past, present, or future claims, actions, counts, cross claims, counterclaims, rights, obligations, liabilities, duties, debts, demands, lawsuits, damages of any kind, administrative proceedings, statutory or regulatory obligations, arbitrations, mediations, causes of action, orders or directives, penalties or assessments (including, but not limited to, Natural Resource Damages), and any other assertion of responsibility or liability of any kind, whether legal or equitable, and whether currently known or unknown, fixed or contingent, matured or unmatured, liquidated or unliquidated, direct or consequential, foreseen or unforeseen, and whether sounding in tort, contract, equity, strict liability, or any other statutory, regulatory, administrative or common law cause of action of any sort, brought or those that could have been brought by any person or entity, in connection with, arising from, or in any way related to the Litigation, the Adversary Proceeding, and/or the Union Facility, as those terms are defined herein. Claims shall not include any new or future discharge by Linde that occurs subsequent to the execution date of this Settlement Agreement, if any.

1.5. The term "EPA" shall mean the United States Environmental Protection Agency.

1.6. The term "Hazardous Substance" shall mean any toxic, hazardous, ignitable, reactive or corrosive substance, material or waste and any pollutant or contaminant, or infectious or radioactive substance or material, or any substances, materials, or wastes defined or regulated under any federal, state or local environmental laws, regulations, or ordinances, including, but not limited to, (a) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. section 9601(14); (b) any "pollutant or contaminant" under Section 101(33) of CERCLA, 42 U.S.C. section 9601(33); (c) any "hazardous substance" under the New Jersey Spill Act, N.J.S.A. § 58:10-23.11b; and (d) any mixture containing any of the constituents noted in (a), (b), or (c) above.

1.7. The term "Linde" shall mean Linde LLC and its owners, shareholders, officers, directors, employees, parents, subsidiaries, successors, predecessors, joint-venture partners, agents, and assigns (collectively, the "Related Entities"), but only to the extent that the alleged liability of any of the Related Entities for the Union Facility is based on its status and in its capacity as a Related Entity, and not to the extent that the alleged liability of any of the Related Entities with respect to the Union Facility arose independently of its status and capacity as a Related Entity of Linde, whether pursuant to contract, by operation of law, or otherwise, including, but not limited to, Linde, Inc., Air Reduction Company, Inc., Airco, Inc., and The BOC Group, Inc.

1.8. The term "Litigation" shall mean the proceedings styled (a) *NEC Holdings Corp., et al. v. Linde, LLC, et al.*, Civil Action No. 11-03457 (D.N.J.), which is where the claims filed by the NEC Debtors against Linde in the Adversary Proceeding were transferred in June 2011, and (b) *Alfred T. Giuliano v. Linde LLC, et al.*, Civil Action No. 11-3457, in which Alfred T. Giuliano, Chapter 7 Trustee of the Estate of National Envelope Corporation – East, a New Jersey Corporation, Successor by Merger with National Equities Corp., a New Jersey Corporation became the successor to the NEC Debtors for all matters, including, but not limited to, all rights with respect to the *NEC Holdings Corp., et al. v. Linde LLC* case.

1.9. The term "Natural Resource Damages" shall mean a cause of action by the State of New Jersey Department of Environmental Protection or any State or Federal Trustee to recover costs under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.24; the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*; the Oil Pollution Act, 33 U.S.C.A. §§ 2701 to 2761; the Clean Water Act, 33 U.S.C.A. §§ 1251 to 1387; the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C.A. §§ 9601 to 9675; the Technical Requirements for Site Remediation, N.J.A.C. 7:26E-1.8. *et seq.*, or any other state or federal common law, statute, or regulation, for compensation for the assessment of, restoration and/or replacement of, the lost value of, injury to, or destruction of natural resources and natural resource services, including, but not limited to, the costs of assessing injury to natural resources and natural resources services (including without limitation oversight costs, attorneys' fees, consultants' fees and experts' fees incurred as part of such assessment), penalties, attorney's fees, consultants' fees and experts' fees incurred in connection therewith.

1.10 The term "NEC Bankruptcy Case" shall mean the bankruptcy case commenced as a chapter 11 bankruptcy proceeding and now a pending chapter 7 bankruptcy proceeding involving the NEC Debtors, which is styled *In re NEC Holdings Corp., et al.*, Bankruptcy Case No. 10-11890.

1.11. The term "NEC Debtors" shall collectively mean NEC Holdings Corp., a Delaware corporation; National Envelope Corporation, a New York corporation; National Envelope - WH LLC, a New York limited liability company; National Envelope - AECO LLC, a Delaware limited liability company; National Envelope - Chino LLC, a California limited liability company; National Envelope - City of Industry, LLC, a California limited liability company; National Envelope - Ennis LLC, a Delaware limited liability company; National Envelope - Corsicana LLC, a Texas limited liability corporation; National Envelope - Grand Prairie LLC, a Texas limited liability company; National Envelope - Aurora LLC, a Colorado limited liability company; National Envelope - Lenexa LLC, a Kansas limited liability company; National Envelope - Appleton LLC, a Wisconsin limited liability company; National Envelope - Elk Grove Village LLC, an Illinois limited liability company; National Envelope - Scottsdale LLC, a Pennsylvania limited liability company; National Envelope Corporation - East, a New Jersey Corporation; National Envelope - Specialties Group LLC, a Delaware limited liability company; National Envelope - Houston LLC, a Texas limited liability company; National Envelope - Shelbyville Equity LLC, a Delaware limited liability company; National Envelope - Exton Equity LLC, a Delaware limited liability company; National Envelope - Nashville Equity LLC, a Delaware limited liability company; National Envelope - Houston Equity LLC, a Delaware limited liability company; National Envelope - Leasing LLC, a Delaware limited liability company; New York Envelope Corporation, a New York corporation; National Envelope Corporation - North, a Massachusetts corporation; National Envelope Corporation - South, a Georgia corporation; National Envelope Corporation - Central, a Missouri corporation; Old Colony Envelope Corporation, a Massachusetts corporation; and Aristocrat Envelope Corporation, a New York corporation, and their respective owners, shareholders, officers, directors, employees, parents, subsidiaries, successors, predecessors, agents, and assigns, whether pursuant to contract, by operation of law, or otherwise.

1.12. The term "New Jersey Joint Tortfeasors Contribution Law" shall mean the New Jersey Joint Tortfeasors Contribution Law, N.J.S.A. §§ 2A:53A-1, *et seq.*

1.13. The term "the New Jersey Spill Act" means the New Jersey Spill Compensation and Control Act, N.J.S.A. §§ 58:10-23.11, *et. seq.*

1.14. The term "NJDEP" means the State of New Jersey, Department of Environmental Protection, any successor departments or agencies, and the Commissioner of the New Jersey Department of Environmental Protection, in their named capacity, as *parens patriae*, and as trustee of the natural resources of New Jersey.

1.15. The term "Parties" shall mean the Trustee, Linde, and the NJDEP.

1.16. The term "response" shall have the meaning as defined in CERCLA, 42 U.S.C. section 9601(25).

1.17. The term "Settlement Amount" shall mean that total amount listed in Section 4 which has been agreed upon between the Trustee, Linde, and the NJDEP to fully, completely, and finally resolve Linde's potential liability with respect to those Claims released by the Parties as delineated in Sections 5, 7, and 9 of this Agreement.



1.18. The term "Trustee" shall mean Alfred T. Giuliano, Chapter 7 Trustee of the Estate of the NEC Debtors and their owners, shareholders, officers, directors, employees, parents, subsidiaries, successors, predecessors, agents, and assigns, whether pursuant to contract, by operation of law, or otherwise.

2. **Purpose.**

The terms of this Agreement shall control the manner and means by which the Parties will settle any and all Claims by and among each other.

3. **Nature of Agreement.**

The Parties acknowledge that the consideration tendered and received herein, the promises, undertakings, and agreements made, and the execution of this Agreement, are in compromise and settlement of disputed claims and are not admissions of liability on the part of any of them, and that each of the Parties is willing to perform its obligations hereunder for the purpose of resolving their differences and to avoid the burden and expense of protracted litigation relating to the Claims released by the Parties as delineated in Sections 5, 7, and 9 of this Agreement. Neither this Agreement, nor any performance hereunder by any Party, shall create any rights on behalf of any other person or entity not a party hereto. Notwithstanding the foregoing, this Agreement shall be fully admissible in any proceeding to enforce the Parties' rights and obligations hereunder. Nothing herein shall be deemed to create a partnership or joint venture and/or principal and agent relationship between or among the Parties.

4. **Settlement Payment by Linde, Bankruptcy Court Approval, and Dismissal With Prejudice.**

4.1. Linde agrees to pay, and the Trustee agrees to accept, the total sum of one million seven hundred fifty thousand dollars (\$1,750,000.00) (the "Settlement Amount") in full and final compromise and settlement of the Claims released by the Parties as delineated in Sections 5, 7, and 9 of this Agreement by no later than seven (7) business days from the entry of the Consent Order approving this Agreement by the United States District Court in the Litigation. The aforementioned payment shall be in the form of a wire transfer or company check to be payable as directed by the Trustee.

4.2. Within fifteen (15) days of receipt of the Settlement Amount, the Trustee shall pay to the NJDEP one million dollars (\$1,000,000.00) of the Settlement Amount as directed by the NJDEP to be placed in an account established by the NJDEP to receive funds for remediation of the Union Facility pursuant to the May 16, 2012 Stipulation and Agreement Among the Chapter 7 Trustee, the United States, on Behalf of the EPA, and the State of New Jersey, Department of Environmental Protection, Regarding the Chapter 7 Trustee's Motion to Abandon Certain Real Property, and Specifying the Use of and Distributions from an Environmental Remediation Fund.

4.3. The Trustee shall pay from the Settlement Amount any compensation and reimbursement of expenses that may be awarded by the Bankruptcy Court to The Justis Law

Firm, LLC pursuant to 11 U.S.C. § 330(a), and pursuant to the Bankruptcy Court's May 27, 2011 Order and March 21, 2012 Order.

4.4. Bankruptcy Court and United States District Court Approval. The Parties acknowledge and understand that this Agreement, and all of its terms, are subject to approval by the United States Bankruptcy Court for the District of Delaware in the NEC Bankruptcy Case, and the Consent Order is subject to approval and entry by the United States District Court in the Litigation. After receiving the Bankruptcy Court's approval of this Agreement and all of its terms in the NEC Bankruptcy Case under Bankruptcy Rule 9019 or applicable provisions of the Bankruptcy Code, and within seven (7) days of the United States District Court's entry of the Consent Order in the Litigation, Linde shall pay to the Trustee the Settlement Amount pursuant to subsection 4.1 above.

4.5 If for any reason the Agreement is not approved by the Bankruptcy Court and/or the Consent Order is not entered by the United States District Court in the Litigation: (i) this Agreement shall be null and void, and the Parties shall not be bound under the Agreement or any documents executed in connection herewith; (ii) the Parties shall have no liability to one another arising out of or in connection with the Agreement or under any documents executed in connection herewith; and (iii) the Agreement and any documents prepared in connection herewith shall have no residual or probative effect or value.

4.6. Dismissal With Prejudice from the Litigation. Within five (5) days after the receipt of the Settlement Amount pursuant to subsection 4.1 above, the Trustee shall promptly execute the Stipulation of Dismissal With Prejudice in the form annexed hereto as Exhibit A in the Litigation to dismiss Linde LLC, Linde, Inc., Air Reduction Company, Inc., Airco, Inc., and The BOC Group, Inc., and any counterclaims against the NEC Debtors by any of these defendants, with prejudice, with each party bearing its own costs. The Trustee shall promptly return the executed Stipulation of Dismissal With Prejudice to Linde. Linde shall file the Stipulation of Dismissal executed by the Trustee and Linde in the Litigation for review and entry by the Court.

4.7. Dismissal Without Prejudice from the Litigation. Linde shall file the Stipulation of Dismissal Without Prejudice in the form annexed hereto as Exhibit B in the Litigation to dismiss without prejudice any and all of its claims asserted against all third-party defendants in the Litigation.

**5. The Trustee's and the NEC Debtors' Release and Covenant Not to Sue Linde.**

In consideration for the mutual performance of the obligations created by this Agreement and subject to the exclusions set forth in paragraph 6 of this Agreement, the Trustee and the NEC Debtors hereby release, waive, and covenant not to sue Linde or its owners, shareholders, officers, directors, employees, affiliates, parents, subsidiaries, successors, predecessors, agents, and assigns, whether pursuant to contract, by operation of law, or otherwise, for any and all Claims relating to the Union Facility, including, but not limited to, the following Claims that they have brought, could have brought, or may bring in the future:

- (a) Claims under CERCLA, including, but not limited to, Claims under § 107 and § 113 of CERCLA for past, present, and future response and removal costs;
- (b) Claims under the New Jersey Spill Act for past, present, and future cleanup, removal, remediation and response costs;
- (c) Claims for contribution or indemnity under any other federal or state statutory law or common law;
- (d) Claims for contribution or otherwise in response to any claims made against the Trustee or the NEC Debtors by any State or Federal Trustee for Natural Resource Damages;
- (e) Any other Claims, whether statutory or in common law;
- (f) Claims, rights, or entitlements assigned to the Trustee by EFG for recovery of any amounts expended by EFG or any other entity or person for purposes of clean-up or remediation of the Union Facility;
- (g) Claims related to penalties imposed by any governmental agency in connection with response actions performed by NEC and/or the Trustee at the Union Facility;
- (h) Claims for EPA and NJDEP oversight costs and penalties in connection with response actions at the Union Facility or the Litigation;
- (i) Any interest on any of the foregoing Claims in connection with the Union Facility; and
- (j) Claims for attorneys' fees or expenses incurred in connection with the expenditure of, or attempt to recover, on any of the foregoing Claims.

The Trustee and the NEC Debtors further release, waive, and covenant not to sue Linde or its owners, shareholders, officers, directors, employees, affiliates, parents, subsidiaries, successors, predecessors, agents, and assigns, whether pursuant to contract, by operation of law, or otherwise, as to any Claims relating to the contamination or remediation with regard to the Union Facility that any of the creditors of the NEC Debtors now has or may in the future have.

**6. Exclusions to the Trustee's and the NEC Debtors' Release and Covenant Not to Sue.**

Notwithstanding paragraph 5, the Release and Covenant Not to Sue given by the Trustee and the NEC Debtors to Linde shall not apply to any of the following Claims relating to the Union Facility:



- (a) Third-party tort claims, including, but not limited to, claims for personal injury, medical monitoring, property damage including off-site property damage, diminution in property value, consequential damages, and punitive damages; and
- (b) Any claims relating to the enforcement of this Agreement.

7. **Linde's Release and Covenant Not to Sue the Trustee or the NEC Debtors.**

In consideration for the mutual performance of the obligations created by this Agreement and subject to the exclusions set forth in paragraph 8 of this Agreement, Linde hereby releases, waives, and covenants not to sue the Trustee or the NEC Debtors or their owners, shareholders, officers, directors, employees, affiliates, parents, subsidiaries, successors, predecessors, agents, and assigns, whether pursuant to contract, by operation of law, or otherwise, for any and all Claims relating to the Union Facility, including, but not limited to, the following Claims that they have brought, could have brought, or may bring in the future:

- (a) Claims under CERCLA, including, but not limited to, Claims under § 107 and § 113 of CERCLA for past, present, and future response and removal costs;
- (b) Claims under the New Jersey Spill Act for past, present, and future cleanup, removal, remediation and response costs;
- (c) Claims for contribution or indemnity under any other federal or state statutory law or common law;
- (d) Claims for contribution or otherwise in response to any claims made against Linde by any State or Federal Trustee for Natural Resource Damages;
- (e) Any other Claims, whether statutory or in common law;
- (f) Claims for EPA and NJDEP oversight costs and penalties in connection with response actions at the Union Facility or the Litigation;
- (g) Any interest on any of the foregoing Claims in connection with the Union Facility; and
- (h) Claims for attorneys' fees or expenses incurred in connection with the expenditure of, or attempt to recover, on any of the foregoing Claims.

8. **Exclusions to Linde's Release and Covenant Not to Sue.**

Notwithstanding paragraph 7, the Release and Covenant Not to Sue given by Linde to the Trustee and the NEC Debtors shall not apply to any of the following Claims relating to the Union Facility:

- (a) Third-party tort claims, including, but not limited to, claims for personal injury, medical monitoring, property damage including off-site property damage, diminution in property value, consequential damages, and punitive damages; and
- (b) Any claims relating to the enforcement of this Agreement.

Linde expressly reserves all rights, including, but not limited to, any right to indemnification and contribution, defenses, claims, demands, and causes of action that Linde may have concerning any matter, transaction, or occurrence, whether or not arising out of any Claims, against any person not a Party to this Agreement.

**9. The NJDEP's Release of Natural Resource Damage Claims Against and Covenant Not to Sue Linde, the Trustee, and/or the NEC Debtors.**

In consideration for the mutual performance of the obligations created by this Agreement, and except as otherwise provided in this paragraph 9, the NJDEP releases Linde, the Trustee, and the NEC Debtors from claims for Natural Resource Damages and all costs incurred or to be incurred in relation thereto, relating to the Union Facility as defined herein.

In consideration for the mutual performance of the obligations created by this Agreement, and except as otherwise provided in this paragraph 9, the NJDEP hereby waives, covenants not to sue, and agrees not to otherwise take judicial, administrative, or other action against Linde, the Trustee, or the NEC Debtors, whether pursuant to contract, by operation of law, or otherwise, for liability for any and all Claims, including, but not limited to, the following Claims that it now has or may in the future have:

- (a) Claims for all costs of any kind, incurred or to be incurred, and sought to be recovered, under § 107 and § 113 of CERCLA relating to remediation of Hazardous Substances at the Union Facility as defined herein;
- (b) Claims for all costs of any kind, incurred or to be incurred, and sought to be recovered, under the New Jersey Spill Act relating to remediation of Hazardous Substances at the Union Facility as defined herein; and
- (c) Any other Claims, whether statutory or in common law, relating to remediation of environmental contamination at the Union Facility as defined herein.

The covenants and releases contained in this paragraph 9 extend only to Linde, the Trustee, and the NEC Debtors and not to any other party, person, or entity.

**10. The NJDEP's Provision of Contribution Protection to Linde.**

The Parties shall execute and submit for approval by the Court in the Litigation the Consent Order substantially incorporating the terms set forth in this Agreement, which is intended to provide to Linde, the Trustee, and the NEC Debtors contribution protection with respect to any and all Claims by any and all third parties regarding any alleged release of any Hazardous Substance at or emanating from the Union Facility. The Parties intend that, upon approval by the Court in the Litigation, the anticipated Consent Order will constitute a judicially-approved settlement that resolves all liability of Linde, the Trustee, and the NEC Debtors to the NJDEP within the meaning of N.J.S.A. 58:10-23.11f.a.(2)(b) and the meaning of 42 U.S.C. §§ 9601 *et seq.* and under common law for the purpose of providing contribution protection to Linde from contribution actions brought by any person or entity, under CERCLA, the Spill Act, the Joint Tortfeasors Contribution Law, N.J.S.A. 2A:53A-1 *et seq.*, the Comparative Negligence Act, N.J.S.A. 2A:15-5.1 to -5.8 or any other statute, regulation, or common law principle related to any Claims.

The Parties intend that the NJDEP shall, following Bankruptcy Court approval of this Agreement, publish a copy of the Bankruptcy Court's approval of this Agreement and this Agreement in accordance with N.J.S.A. 58:10-23.11e2.

The Parties shall provide written notice to counsel of record to other parties in this case and to any other known potential responsible parties.

**11. Effective Date of Agreement and Consent Order.**

The Agreement and Consent Order shall become effective upon final approval and execution of the Agreement by all of the Parties, approval of the Agreement by the Bankruptcy Court, entry of the Consent Order and the Stipulations of Dismissal by the United States District Court in the Litigation, and receipt by the Trustee of the Settlement Amount.

**12. Denial of Liability and Reservation of Rights.**

Except as expressly provided by the terms of this Agreement, this Agreement shall not constitute, be interpreted, construed or used as evidence of any admission of fact, law, responsibility, liability or fault, a waiver or release of any right or defense not specifically enumerated, or an estoppel against any Party, by Parties as among themselves, or by any other person not a Party.

**13. Successors and Assigns.**

This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto. Any change in ownership or corporate status of a Party including, but not limited to, any transfer of assets, transfer of real or personal property, merger, acquisition or dissolution, shall not alter a Party's responsibilities under this Agreement. No assignment or delegation by a Party of its obligations under this Agreement or of this Agreement will release the assigning Party without the prior written consent of the other Party.

**14. Advice of Counsel and Arm's Length Agreement.**

No Party, or representative or counsel for any Party, has acted as counsel for any other Party with respect to such Party entering into this Agreement, except as expressly engaged by such Party with respect to this Agreement, and each Party represents that it has sought and obtained any appropriate legal advice it deems necessary prior to entering into this Agreement. The Parties to this Agreement acknowledge and confirm that this Agreement was negotiated fairly among them at arm's length and that the final terms of this Agreement shall be deemed to have been jointly and equally drafted by them, and that the provisions of this Agreement shall not be construed against any Party to it on the grounds that the Party drafted or was more responsible for drafting such provision(s).

**15. Necessary Authorizations.**

The Parties warrant to each other that all necessary authorizations and all other actions have been taken such that execution, delivery, and performance of this Agreement and all other actions taken or to be taken in connection with this Agreement have been fully authorized.

**16. Notices.**

All notices required to be given under this Agreement shall be in writing, sent by certified mail or by overnight courier to the Party to whom the notice is directed, at the addresses stated below, and shall be deemed to have been given when received by the Party:

<p><u>If to the Trustee:</u></p> <p>Gary D. Justis, Esq. The Justis Law Firm LLC 5251 W. 116th Place Suite 200 Leawood, Kansas 66211-7820 (913) 998-6102 and John V. Fiorella, Esq. Archer &amp; Greiner, P.C. One Centennial Square P.O. Box 3000 Haddonfield, New Jersey 08033 (302) 777-4350</p>	<p><u>If to Linde:</u></p> <p>Anthony J. Marchetta, Esq. Day Pitney LLP One Jefferson Road Parsippany, New Jersey 07054 (973) 966-6300</p>
<p><u>If to the NJDEP:</u></p> <p>Richard F. Engel, DAG State of New Jersey, Department of Law and Public Safety Richard J. Hughes Justice Complex 25 Market Street</p>	

P.O. Box 093  
Trenton, New Jersey 08625  
(609) 984-4863

**17. Amendments.**

This Agreement may be amended only by the unanimous written consent of all of the Parties hereto.

**18. Severability.**

If any provision of this Agreement is deemed invalid or unenforceable, the balance of this Agreement shall remain in full force and effect.

**19. Relationship of the Parties.**

This Agreement does not create, and shall not be construed to create, any agency, joint venture, or partnership relationship between or among the Parties.

**20. No Waiver.**

The failure of a Party to insist on strict performance of any, or all of, the terms of this Agreement, or to exercise any right or remedy under this Agreement, shall not constitute a waiver or relinquishment of any nature regarding such right or remedy or any other right or remedy. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

**21. Titles and Headings.**

Titles and headings to articles or sections herein are inserted merely for convenience of reference and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

**22. Counterparts.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**23. Governing Law, Jurisdiction, and Jury Waiver.**

This Agreement, and all amendments hereof, shall be governed by and construed in accordance with the internal laws of the State of New Jersey applicable to contracts made and to be performed therein.



The Parties consent to the continuing jurisdiction of the United States District Court for the District of New Jersey in the Newark Vicinage for the enforcement of this Agreement.

The Parties hereby waive the right to a trial by jury in connection with any dispute filed with any court by any of the Parties regarding this Agreement.

**24. Entire Agreement.**

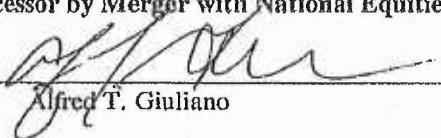
This Agreement embodies the entire agreement and understanding of Linde and the Trustee and Linde and the NJDEP with respect to the subject matter herein, and supersedes any and all prior agreements, arrangements and understandings entered into by them with respect to the subject matter herein. This Section 24 is the last section of this Agreement.

SIGNATURES

IN WITNESS WHEREOF, the Parties hereto enter into this Agreement. Each person signing this Agreement represents and warrants that he or she has been duly authorized to enter into this Agreement by the Party or entity on whose behalf it is indicated that the person is signing.

Alfred T. Giuliano, Chapter 7 Trustee of the  
Estate of National Envelope Corporation – East,  
Successor by Merger with National Equities Corp.

Dated: 12/13/13

By:  \_\_\_\_\_

Alfred T. Giuliano

Authorized Representative for Notice to the Trustee:

Gary D. Justis, Esq.  
The Justis Law Firm LLC  
5251 W. 116th Place  
Suite 200  
Leawood, Kansas 66211-7820  
(913) 998-6102  
and  
John V. Fiorella, Esq.  
Archer & Greiner, P.C.  
One Centennial Square  
P.O. Box 3000  
Haddonfield, New Jersey 08033

Linde LLC

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Authorized Representative for Notice to Linde LLC:

Anthony J. Marchetta  
Day Pitney LLP  
One Jefferson Road  
Parsippany, New Jersey 07054

**SIGNATURES**

IN WITNESS WHEREOF, the Parties hereto enter into this Agreement. Each person signing this Agreement represents and warrants that he or she has been duly authorized to enter into this Agreement by the Party or entity on whose behalf it is indicated that the person is signing.

**Alfred T. Giuliano, Chapter 7 Trustee of the  
Estate of National Envelope Corporation – East,  
Successor by Merger with National Equities Corp.**

Dated: \_\_\_\_\_

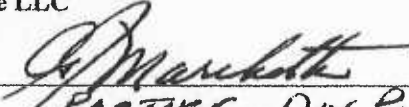
By: \_\_\_\_\_  
Alfred T. Giuliano

Authorized Representative for Notice to the Trustee:

Gary D. Justis, Esq.  
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5251 W. 116th Place  
Suite 200  
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(913) 998-6102  
and  
John V. Fiorella, Esq.  
Archer & Greiner, P.C.  
One Centennial Square  
P.O. Box 3000  
Haddonfield, New Jersey 08033

Linde LLC

Dated: 12/13/13

By:   
PRATNER, DAY PITNEY LLP

Authorized Representative for Notice to Linde LLC:

Anthony J. Marchetta  
Day Pitney LLP  
One Jefferson Road  
Parsippany, New Jersey 07054

State of New Jersey, Department of Environmental  
Protection

Dated: December 13, 2013

By: 

RICHARD F. ENGEL

Authorized Representative for Notice to State of New Jersey, Department of  
Environmental Protection:

Richard F. Engel, DAG  
State of New Jersey, Department of Law and Public Safety  
Richard J. Hughes Justice Complex

25 Market Street  
P.O. Box 093  
Trenton, New Jersey 08625