

## HOLD HARMLESS AGREEMENT AND RELEASE

### Recitals

1. South Dakota Science and Technology Authority (SDSTA) entered into a lease with the U.S. Department of Energy (DOE) for certain space at Sanford Underground Research Facility (SURF) to be excavated by Thyssen Mining Inc. (TMI) under a subcontract with Fermi Research Alliance, LLC (FRA), under FRA's Prime Contract with DOE.
2. TMI completed a raise bore hole to the 4850L from the 3650L. On April 8, 2022, SDSTA discovered a previously unknown concrete bulkhead/regulator wall at the location of the Oro Hondo Ventilation Shaft on the 3650L which reportedly might restrict ventilation reaching the 4850L. SDSTA has recommended that this wall be removed to improve ventilation conditions for the excavation of the caverns. The wall was first observed by representatives of FRA, KAJV and TMI on April 11, 2022. The discovery of the wall and requirements for the added work to both remove the wall and temporarily install a Kennedy door/wall are the subject of a change order (CO) as dictated by FRA's NOC-00028. The concrete Bulkhead Wall is cracked and in poor condition and is not adequately supported. FRA is issuing a CO to TMI to address this Differing Site Condition (DSC).
3. The Change Order scope of work includes:
  - 1) Demolition of the newly discovered concrete Bulkhead Wall on the right-hand side of the drift. The Bulkhead Wall shall be removed by blasting to enlarge the cross-sectional area of the opening into the Oro Hondo Shaft. No rock excavation shall be undertaken.
  - 2) Removal of the Kennedy wall/door (installation in early April was out of scope).
  - 4) If the concrete wall falls into the shaft, it shall be left in place.

### Release

1. TMI's services in performance of the Change Order are provided "as is." TMI makes no representations and grants no warranties, express or implied, either in fact or by operation of law, by statute or otherwise, to the results of the performance of the Change Order. Specifically, TMI does not represent or warrant that its performance of the Change Order:
  - 1) will have the intended impact on the ventilation within the Sanford Underground Research Facility and/or the space leased by DOE and/or;
  - 2) will resolve blocked air ventilation for the Oro Hondo Ventilation Shaft and/or;
  - 3) will be limited to the demolition of the Bulkhead Wall.

SDSTA acknowledges that the demolition may cause damage to or demolition of other adjacent and near-adjacent rock.

2. To the fullest extent permitted by law, SDSTA agrees to release TMI and its officers, directors, agents, employees, and sub-sub contractors from any loss, costs, damages, and expenses for damage to SDSTA property arising out of TMI's performance of the Change Order's scope of work, including but not limited to any consequential damages (which includes but is not limited to loss of goodwill, loss of business, loss of anticipated profits or savings and all other pure economic loss, delays to any projects or experiments, whether managed by SDSTA, FRA, TMI, DOE or other DOE contractors at SURF), regardless of whether such damage is caused by TMI's negligence. Provided, however, that this release does relieve TMI of liability for damage resulting from TMI's intentional acts, willful misconduct or gross negligence.