Metropolitan Council Environmental Services

 Industrial Waste & Pollution Prevention Section

 390 Robert Street North

 St. Paul, MN 55101-1805



*For MCES Use Only*

Date Received: \_\_\_\_\_\_\_\_

# 6.3 Appendix C. MCES Electronic Signature Agreement

## For use of MCES Industrial Online Reporting System

Use this Electronic Signature Agreement (ESA) to request Responsible Official (RO) privileges, which allow the user to electronically submit permitting and monitoring data to MCES.

### 6.3.1 Responsible Official (RO) Information

| User Name: |       |
| --- | --- |
| Legal Full Name: |       |
| Job Title: |       |
| Mailing Address: |       |
| City, State, Zip: |       |
| Email Address: |       |
| Phone Number: |       |

### 6.3.2 Facility Information

#### Responsible Official (RO) privileges are requested for the following facilities:

| Permit No. | Facility Name | Facility Location Address |
| --- | --- | --- |
|  |  |  |
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|  |  |  |

#### Submittal Reason:

**[ ]** New:This is the first ESA submitted for this user account to act as the RO for the above facilities.

[ ]  Change: This is an updated ESA submitted because the signatory authority at the facility has changed.

Specify the RO(s) to be replaced: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Note: Any RO requesting to discontinue electronic submissions must complete the MCES Account Deactivation Request Form (Section 6.4, Appendix D).

[ ]  Reactivation: This is a re-activation of a user account to act as the RO for the above facilities.

|  |
| --- |
| **Notes to MCES** (optional):  |

### 6.3.3 Terms and Conditions

1. DEFINITION: A Responsible Official (RO) refers to any signer of this document. An individual must meet EPA’s signatory requirements in 40 CFR § 403.12(l) to be an RO.
2. PURPOSE: This agreement creates legally binding obligations for the parties using the specified data transmission protocols and the MCES Industrial Online Reporting System. The RO agrees to (i) maintain confidentiality and protect the electronic signature from unauthorized use or compromise, and follow all procedures specified by MCES for this purpose; and (ii) be as legally bound, obligated, and responsible by use of the RO’s electronic signature as by hand-written signature.
3. VALIDITY AND ENFORCEABILITY: By this Agreement the parties agree to follow MCES procedures to create binding regulatory reporting documents using electronic transmission and receipt of such records, consistent with the provisions of 40 C.F.R. Part 3 (CROSS-MEDIA ELECTRONIC REPORTING Requirements, CROMERR). Acceptance and execution of this agreement by MCES is shown by the issuance of a personal identification number (PIN) to the Certifier. Consistent with 40 C.F.R. Part 3, electronic signatures under this agreement have the same force and effect as a written signature. Written signatures will remain on file with MCES.
4. RECEIPT: A submission is received when it is accessible by MCES, can be fully processed and complies with MCES’ electronic transfer protocol which MCES may modify from time to time. A submission does not satisfy any reporting requirement in a facility’s industrial discharge permit until it is received by MCES. For permit renewal and compliance reporting, the RO agrees that upon activation of the RO account for requested facilities, the MCES Industrial Online Reporting System will be expecting to receive electronic transmission of reports at the interval specified in the permit. If MCES does not receive the submissions from the RO at the expected time, the database will flag the required submissions as not received. If the RO chooses to discontinue using the MCES Industrial Online Reporting System and return to using paper forms, the RO must complete, sign, and submit an MCES Account Deactivation Form. If MCES does not receive this form, it is likely that the system will continue to produce “not received” flags (indicating reporting violations).
5. VERIFICATION: Upon receipt of a submission, MCES will process the submission to make it accessible. The RO is responsible for the content of each submission, and for reviewing the accuracy of the processed document, both in accordance with the associated certification statement, as made available by the MCES Industrial Online Reporting System.
6. SIGNATURE: The RO agrees that their personal identification number (PIN) will serve as their electronic signature following acceptance of this Agreement. The RO agrees that any such electronic signature affixed to or associated with any transmitted submission verifies (1) that the RO has the requisite authority to originate the transaction; and (2) the accuracy of the content at the time of transmittal. The RO also agrees that each submission the RO submits using their PIN constitutes their agreement with the certification statement in each transmission per 40 CFR § 403.6(a)(2).
7. SECURITY: The parties must take reasonable actions to implement and maintain security procedures necessary to ensure the protection of transmissions against the risk of unauthorized access, alteration, loss or destruction including, but not limited to: protecting the secrecy of passwords and electronic signatures and only transmitting files in an acceptable protocol.
8. USE OF PIN: Each RO must be a person identified by the facility as someone who meets EPA’s criteria of being a signatory authority. If a PIN is compromised or there is evidence of potential compromise, MCES will suspend the PIN and affected account. In addition, MCES will inactivate or revoke a PIN where the RO is no longer an authorized signatory. Each RO agrees that MCES may act immediately and unilaterally in any decision to suspend, inactivate, revoke, or otherwise disallow use of a PIN by any RO, where MCES staff believes that such action is necessary to ensure the authenticity, integrity or general security of transmissions or records, or where there are any actual or apparent violations of this agreement. Each RO also agrees to immediately report to MCES any compromise or potential compromise of a PIN.
9. INABILITY TO TRANSMIT OR FILE REPORTS ELECTRONICALLY: No party is liable for any failure to perform its obligations in connection with any Electronic Transaction or any Electronic Document, where the failure results from any act or cause beyond the party’s control that prevents the party from electronically transmitting or receiving any document submissions. The RO is nonetheless required to submit records or information required by law by other means within the time period required by law, unless a written extension has been granted by MCES.
10. CONTINUATION OF OPERATIONS: In the event that electronic submission of data is not possible via the MCES Industrial Online Reporting System, it is the responsibility of the RO to submit paper copies in accordance with the requirements of the Permit, or written extension granted by MCES. Failure to submit data by the date required by the Permit or extension is a violation and will be enforced according to MCES’ Enforcement Response Plan.
11. SEVERABILITY: Any provision of this Agreement which is determined to be invalid or unenforceable will be ineffective to the extent of that determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of the remaining provisions.
12. TERMINATION AND RENEWAL: This Agreement may be terminated by either party. Upon termination of this Agreement, the ability to submit electronic information through the MCES Industrial Online Report System will also terminate. This Agreement becomes effective upon notification of approval by the MCES to the RO (which may be an automated message from the MCES Industrial Online Reporting System or by separate notification). MCES will normally provide notification of the effective date, but if no date is provided, the effective date is the next reporting cycle following the notification. This Agreement will continue until modified by mutual consent or unless terminated with 60 days written notice by any party. This Agreement will be periodically reviewed and amended or revised by both parties as needed or when required. MCES reserves the right to approve or disapprove this subscriber agreement. This Agreement will be terminated if the facility’s Permit is also terminated.
13. GOVERNING LAW: This Agreement is governed by and interpreted in accordance with 40 CFR 122, 40 CFR 3, and other applicable Minnesota State Law provisions.
14. AGREEMENT: I and the facilities listed in Section 6.3.2 agree:

[ ]  To protect my account and password from compromise, not allow anyone else to use my account, and not share my password with any other person;

[ ]  To change my password if I believe it becomes known to any other person;

[ ]  To promptly report to MCES any evidence of the loss, theft, or other compromise of my account or password within one business day;

[ ]  To notify MCES in writing, if I terminate my employment, am reassigned or if any other change in my status causes me to cease to be an authorized signatory of any of the requested facilities listed in this Agreement. Notification should occur as soon as the change occurs.

[ ]  To review, in a timely manner, the email and onscreen acknowledgements and copies of data submissions transmitted through my account to the MCES Industrial Online Reporting System;

[ ]  To report discrepancy between the submissions and what the MCES Industrial Online Reporting System received;

[ ]  That in no event will MCES be liable to me or the facilities I represent for any special, consequential, indirect or similar damages, including any lost profits or lost data arising out of the use or inability to use the software or of any data supplied therewith even if MCES or anyone else has been advised of the possibility of such damages, or for any claim by any other party. MCES disclaims all warranties, expressed or implied, including but not limited to warranties of merchantability and fitness for a particular purpose, with respect to the software and the accompanying written materials

I understand that I and the facilities I represent are as legally bound, obligated, and responsible by the electronic signature created as by a handwritten signature.

### 6.3.4 Responsible Official Designation by the Signatory Authority

The RO must meet EPA’s signatory criteria of a signatory authority:

* A responsible corporate officer, if the facility is a corporation;
* A general partner or proprietor, if the facility is a partnership or sole proprietorship, respectively; or
* A duly authorized representative of an individual in 1) or 2), if such representative is responsible for the overall operation of the facility and/or the environmental matters for the facility.

In many cases, a signatory authority may wish to designate a person as an RO for signing and submitting permit required documents electronically using the MCES Industrial Online Reporting System. **If the signatory authority wishes to designate a person for this purpose, please complete this Section of this Agreement.** Please note the designated RO must have overall responsibility for the operations of the facility and/or the environmental matters of the facility.

#### For the Signatory Authority:

I hereby designate (name) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as my designated RO for the purpose of signing and submitting data to MCES electronically using the MCES Industrial Online Reporting System for the above-listed facilities. I understand that this designation does not release me from responsibility or liability for any violations of the MCES Waste Discharge Rules that may occur at these facilities.

|       |  |       |
| --- | --- | --- |
| Name of Signatory Authority |  | Title of Signatory Authority |
|  |  |       |
| Signature of Signatory Authority |  | Date |
|       |  |  |
| Email address of Signatory Authority |  |  |

#### For designated Responsible Officials:

I understand that as a designated Signatory Authority and RO, I am responsible for ensuring accurate collection and representation of all information submitted electronically in the MCES Industrial Online Reporting System for the above-listed facilities.

|       |  |       |
| --- | --- | --- |
| Name of designated RO |  | Title of designated RO |
|  |  |       |
| Signature of designated RO |  | Date |
|       |  |  |
| Email address of designated RO |  |  |

### 6.3.5 Responsible Official (RO) Signature

The RO is the person who submits this Agreement to request the ability to electronically sign and submit data to MCES. The RO is given signatory authority to sign data submissions and other information under applicable regulations or is a delegated signatory authority by the individual(s) identified as the signatory authority in Section 6.3.4 of this Agreement.

#### For Signatory Authority:

For the above-listed facilities, I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, have the authority to enter into this Agreement under the applicable standards.

#### For Designated ROs:

For the above-listed facilities, I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, am authorized by the Signatory Authority named in Section 6.3.4 of this Agreement, who has the signatory authority under 40 CFR §403.12(l), to enter into this Agreement.

By submitting this Agreement to MCES, I have read, understand, and accept the terms and conditions of this Agreement. I certify under penalty of law that I have personally examined and am familiar with the information submitted in this Agreement and all attachments contained in the Agreement, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

|  |  |       |
| --- | --- | --- |
| Signature of RO |  | Date |

**This ESA form must be submitted to MCES as a paper copy with a wet-ink signature. When completed, print and sign this form, save a copy for your records and mail to:**

MCES Industrial Online Reporting System Coordinator
390 Robert Street North, St. Paul, MN 55101.

**Once this form is reviewed and approved, MCES will issue the RO a formal PIN to use in the MCES Industrial Online Reporting System.**

*For MCES Use Only*

Review Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Reviewed by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Approved? Yes No Approval Date: \_\_\_\_\_\_\_\_\_\_\_\_ Denial Date: \_\_\_\_\_\_\_\_\_\_\_\_\_

Denial Reason: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_