

## **LIME REMOVAL TERMS AND CONDITIONS**

These Lime Removal Terms and Conditions are the terms governing removal of spent lime (“Lime”) from factory locations of American Crystal Sugar Company (“ACSC”) by any third party (“Contractor”) with notice of these terms, however gained, including the use of ACSC’s website. These Lime Removal Terms and Conditions, together with those contained in any Lime Removal Agreement, constitute the entire agreement (the “Agreement”) between Contractor and ACSC related to the removal of Lime (the “Removal”) and supersede all prior agreements, and negotiations, whether written or oral, with respect to the subject matter hereof. This Agreement can be accepted only on the exact terms set forth herein and no terms which are in any manner whatsoever additional to or different from those set forth herein shall become a part of or in any way alter the Agreement without the express written consent of ACSC.

### **1. Removal of Lime.**

a. ACSC grants Contractor the right to remove Lime in amounts to be mutually agreed upon, at no cost to the Contractor or ACSC, from the factory indicated on Contractor’s Lime Removal Agreement (the “Factory”). Removal shall occur at such times and in such amounts as are mutually agreed upon.

b. Contractor agrees to operate in a professional manner while removing the Lime and agrees to follow any guidelines and safety and security requirements that may be established by ACSC with regard to activities occurring on ACSC property.

c. ACSC will load the Lime into Contractor’s trucks. Notwithstanding anything to the contrary herein, Contractor agrees to pay ACSC a loading fee per truck load, at the rates set forth on ACSC’s website, at [www.crystalsugar.com](http://www.crystalsugar.com), VersaLime section, on the day of Removal (the “Loading Fee”). The volume of Lime removed will be estimated based on the volume of the loading equipment, and the estimated volume will be used for calculating the Loading Fee. ACSC will invoice Contractor monthly for the Loading Fee based on the volume of Lime removed in the prior month. Contractor agrees to pay ACSC by the 25<sup>th</sup> day of the month following the statement date. Finance charges of 1.5% per month (or the highest rate allowed by applicable law) will be charged on past due invoices. In the event an account is past due, ACSC may suspend the future Removal of Lime, or other ACSC byproducts (e.g., mud, pulp and tailings), until such time as the account is current.

d. Title to, and responsibility for, the Lime will transfer from ACSC to Contractor at the time the Lime has been loaded into Contractor’s truck/trailer. Contractor shall execute any receipt or further documentation required by ACSC to accomplish the transfer of the Lime. Contractor must also disclose to ACSC each location where the Lime will be delivered, stored or used after Removal. Contractor agrees that the Lime will be used only in the location(s) specified. Contractor will notify ACSC immediately if the Lime is used in any other location.

e. Contractor shall be responsible for clean-up and removal of any Lime which may spill during transport, and in the event of such a spill, Contractor agrees to immediately notify the Factory and the ACSC Regulatory Affairs Department. Contractor shall be responsible for undertaking and completing any required road repair resulting from Contractor’s Removal activities.

f. The Lime is being given to the Contractor “AS IS, WHERE IS AND WITH ALL FAULTS” and Contractor acknowledges that ACSC makes no representation or warranty as to the quality, value, or condition of the Lime, or the efficacy of its use. ACSC HEREBY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES RELATED TO THE LIME, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Contractor assumes full responsibility for issues resulting from the use of the Lime.

### **2. Regulatory Compliance.**

a. Contractor represents and warrants that (i) it shall only land apply the Lime; (ii) that it has knowledge of all legal requirements and regulations that must be followed in performing the Removal and application of the Lime; (iii) that it shall perform the Removal and application of the Lime in compliance with all applicable governmental, local and other competent authorities, laws, regulations and orders, including applicable

environmental health and safety provisions; and (iv) that it shall be responsible for paying all fines and penalties that may result from its non-compliance with such requirements, laws, regulations and orders. Contractor further represents and warrants that it has obtained all necessary licenses to perform the Removal in the states or jurisdictions where the Removal will be carried out.

b. Contractor agrees to use and handle the Lime in a manner that is protective of surface and groundwater. Contractor agrees and understands that by undertaking the Removal, Contractor shall be responsible for the proper management of the Lime and such management shall be in accordance with best management practices and safeguards that shall be employed by the Contractor to guaranty the prevention of surface and groundwater contamination. Contractor acknowledges that any contamination of groundwater and/or surface water supplies as a result of the Contractors handling or mishandling of the Lime could subject the Contractor to enforcement actions.

c. Contractor grants ACSC the right to inspect its facilities where the Lime will be stored after Removal and/or where the Lime will be applied, upon reasonable notification by an ACSC representative. For clarity, ACSC has no duty to inspect such facilities.

d. In addition to the other requirements set forth in this Section 2, Contractor shall comply with the specific state requirements set forth on Exhibit A, attached hereto, applicable to the state(s) in which the Lime will be utilized.

3. **Indemnification.** Contractor shall defend, indemnify and hold harmless ACSC, its members, directors, officers, employees, agents and representatives against any and all liabilities, costs and damages, including reasonable attorneys' fees, arising from or in connection with:

- i. Any breach by Contractor of any provision of this Agreement, including, but not limited to, the failure of Contractor to comply with any applicable regulatory requirements or any representation or warranty;
- ii. Injury or death to persons or damage to property arising from the negligent or intentional act or omission of Contractor, Contractor's employees, and subcontractors, in connection with or resulting from the Removal;
- iii. Any claim, demand, cause of action, loss, expense or liability on account of actual or alleged contamination, pollution, or public or private nuisance, arising directly or indirectly out of the Removal or application of the Lime, including acts or omissions of Contractor, Contractor's employees, or subcontractors, in performance of the Removal or application of the Lime.

4. **Insurance.** Contractor shall maintain at its own expense, and through an insurance carrier satisfactory to ACSC, the following insurance coverage:

- i. Automobile Liability insurance, with minimum limits of not less than One Million Dollars (\$1,000,000) combined single limit or One Million Dollars (\$1,000,000) bodily injury and One Million Dollars (\$1,000,000) property damage, all per accident and irrespective of whether vehicles are owned, hired or non-owned.
- ii. Comprehensive General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) general aggregate for personal injury (including death) and property damage.

Contractor agrees to provide ACSC with evidence of such insurance upon ACSC's request.

5. **Applicable Law.** This Agreement shall be governed in all respects by the laws of the State of Minnesota, excluding its conflict of laws rules, and any disputes hereunder shall be resolved in the courts of the State of Minnesota. The parties hereby irrevocably and unconditionally waive any objection to the laying of venue, and agree not to claim that any proceeding brought in any such court has been brought in an inconvenient forum.

6. **Modification and Waiver.** No provision of this Agreement may be amended, modified or waived except by a writing signed by an authorized representative of the party against whom such amendment, modification or waiver is asserted. No waiver or any failure or omission to enforce any provision of this Agreement or any claim or right arising hereunder shall be deemed to be a waiver of any other provision of this Agreement or any other claim or right arising hereunder.
7. **Survival.** The provisions of this Agreement which, by their nature, would continue beyond the termination or expiration of this Agreement will survive the termination or expiration of this Agreement, including but not limited to Contractor's indemnification obligation under Section 3.

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**Exhibit A**

**State Regulatory Requirements for Storage & Land Application of By-Product Lime Material:**

Minnesota and North Dakota

MPCA and NDDH require the following as part of their approval of field application of waste lime:

- 1) Storage should not occur in areas with greater than two percent slope.
- 2) Storage sites should not be located on areas subject to flooding.
- 3) Storage will not take place in or near any wetland areas.
- 4) Storage will be on Lake Agassiz clay soils. (Lake Agassiz clay is typical for the valley).
- 5) Provide a low soil berm around the stockpile to prevent surface water run-on or run-off.
- 6) Stockpile no more than individual fields or farmer can use.
- 7) Lime can only be stockpiled in a field up to 7 months per calendar year before it must be spread.
- 8) Measures must be taken to prevent loss of lime during transport.
- 9) Soil sampling **ND Only** (see Table 3 below).
- 10) Apply lime by November 15<sup>th</sup>. NO WINTER APPLICATION.
- 11) After the waste lime is applied to a field, it should be incorporated to prevent loss due to wind and water.

All criteria in this section, including slope restrictions, site suitability and separation distances as provided in the following tables should be met for a site to be considered suitable for land application.

Best Management Practices for Land Application Sites:

**Table 1 – Site Setback Criteria**  
**Minimum Separation Distances from Land Application Site**

Required Separation Distances from land application sites (all are applicable):
Residential property - <b>200 feet.</b>
Residence or business on adjoining property – <b>400 feet.</b>
Private drinking water supply well – <b>200 feet.</b>
Public drinking water supply well – <b>1000 feet.</b>
Depth to seasonal high water table or drain tile – <b>5 feet.</b>
Grassed water ways – <b>100 feet.</b>
Down gradient lakes, rivers, streams, type 3, 4 and 5 wetlands, intermittent streams, or tile inlets connected to these surface water features and sinkholes – <b>1000 feet.</b>
Slopes shall not exceed <b>6%</b> for land application sites.

Slope Restrictions: The slope restrictions in **Table 2** are recommended for preventing runoff of by-product limes from land application sites.

**Table 2 – Slope Restrictions for Application Sites**

Slope Percent	Surface Application	Inject or Incorporate within 48 hours
<b>0-6</b>	<b>OK</b>	<b>OK</b>

**Table 3 - Soil Analysis Requirements and Limits for ND**

Parameter	Units	Sample Type	Limit
Soil texture	USDA	Composite <sup>(1)</sup>	NA
pH	Standard units	Composite <sup>(1)</sup>	NA
Organic matter	Percent	Composite <sup>(1)</sup>	NA
Exchangeable phosphorus	ppm	Composite <sup>(1)</sup>	200 <sup>(2)</sup>
Extractable potassium	ppm	Composite <sup>(1)</sup>	NA
Soluble salts	mmhos/cm	Composite <sup>(1)</sup>	4
Nitrate Nitrogen <sup>(3)</sup>	ppm	Composite <sup>(1)</sup>	NA
<sup>(1)</sup> The composite shall consist of a mixture of 15-20 sub-samples taken in the top 2 feet, at a rate of 1 composite sample per 40 acres. <sup>(2)</sup> The soil test method used for this determination is the Olsen test. <sup>(3)</sup> Parameter can be omitted from analysis if estimated using publication SF-882.			