

# **Contract For Superior Environmental Performance with Kimberly–Clark Experimental Mill**

This Contract for Superior Environmental Performance is entered into by the State of Wisconsin through its Department of Natural Resources (WDNR) and Kimberly–Clark Experimental Mill, operating at 126 N. Commercial St., Neenah, WI 54956.

## **I. INTRODUCTION**

- A. The State of Wisconsin is committed to providing a healthy and sustainable environment, to promoting the movement toward zero waste, and to protecting and enhancing the resources of the state for this generation and for generations that follow.
- B. The Department believes that entering into a Contract with Kimberly–Clark will produce environmental performance beyond what can be accomplished under existing law.
- C. The Environmental Results Act §.299.83 Wis. Stats. (commonly known as the Green Tier law) authorizes the WDNR to enter into a Contract to sustain and expand a Green Tier applicant’s superior environmental performance.
- D. Kimberly–Clark has implemented an Environmental Management System (EMS), and the WDNR has determined that the EMS is consistent with the “functional equivalency” requirements of Wisconsin Statute §299.83(1)(dg) and that the EMS is appropriate to the nature, scale and environmental impacts of Kimberly–Clark’s operations.
- E. The WDNR has reviewed Kimberly–Clark’s proposal for superior environmental performance and has determined that the co–benefits identified in this Contract are proportional to the environmental benefits arising from Kimberly–Clark’s performance under this Contract.

**Therefore, in order to produce continuous improvement in the state’s environment, economy and quality of life, the WDNR and Kimberly–Clark agree to work cooperatively under the terms of this Contract in order to achieve the goals laid out in this Contract.**

## II. OVERVIEW

### A. **Definitions.** As used in this Contract:

“State” and “State of Wisconsin” means the State of Wisconsin, acting through the Department of Natural Resources.

“WDNR” means the Wisconsin Department of Natural Resources.

“Kimberly–Clark” means Kimberly–Clark Experimental Mill, operating at 126 N. Commercial St., Neenah, WI 54956

### B. **Environmental Management System (EMS).**

Kimberly–Clark agrees to implement and maintain its EMS for the life of this Contract. Their commitment to implementing and maintaining its EMS includes commitments to the following:

1. Kimberly–Clark agrees to make documentation of their EMS available, upon request, to the WDNR for review.
2. Kimberly–Clark agrees to have an outside environmental auditor (approved by the WDNR) conduct an annual EMS audit (beginning in calendar year 2012), and to provide their findings to the WDNR in the annual report described in section IV.C.
3. Kimberly–Clark agrees to prepare written reports from each future management review of the EMS and to make the reports available, upon request, to the WDNR for review.
4. Kimberly–Clark agrees to provide the WDNR timely notice of EMS audits, and to invite the WDNR to observe the audit. The WDNR recognizes that the Department benefits when authorized representatives of the Department accompany the contractor during such audit activities. These benefits include, but are not limited to, affording the Department a better understanding of the facility and evaluating the relative effectiveness of the EMS. In consideration for these benefits, the Department agrees that it will not seek enforcement nor refer the matter to other State or federal departments or agencies for enforcement of any noncompliance matters discovered by the Department as a result of its participation provided Kimberly–Clark complies with the reporting requirements under s. 299.83(6m)(a).
5. Kimberly–Clark agrees to review its EMS at least annually, and to provide to the WDNR an annual identification of objectives and targets. Kimberly–Clark agrees that its EMS will develop objectives and targets consistent with the definition of superior environmental performance found in §299.83(1)(g).

**C. Annual Compliance Audit**

1. Kimberly-Clark agrees to conduct annually an internal audit of its compliance with environmental requirements that are applicable to the facility.
2. Kimberly-Clark agrees to provide the WDNR timely notice of any compliance audit, and to invite the WDNR to observe the audit. The WDNR recognizes that the Department benefits when authorized representatives of the Department accompany the contractor during such audit activities. These benefits include, but are not limited to, affording the Department a better understanding of the facility and evaluating the relative effectiveness of the EMS. In consideration of these benefits, the Department agrees that it will not seek enforcement nor refer the matter to other State or federal departments or agencies for enforcement of any noncompliance matters discovered by the Department as a result of its participation in such audit provided Kimberly-Clark complies with the reporting requirements under s. 299.83(6m)(a).
3. Kimberly-Clark agrees to provide the compliance audit results to the WDNR.
4. If violations are found during an audit, Kimberly-Clark agrees to provide to the WDNR a description of measures that will be taken to prevent future violations. These measures may include changes to the underlying Environmental Management System.

**D. Superior Environmental Performance**

1. As part of Kimberly-Clark's application for a Tier 2 Contract, Kimberly-Clark has demonstrated a history of superior environmental performance. This demonstration is attached as Appendix 1.
2. In addition, Kimberly-Clark commits to sustain the environmental gains that have been made to date, and to implementing the measures described in Appendix 2 that are designed to produce superior environmental performance.

**III. DEVELOPING AN INTERESTED PERSONS GROUP**

- A. Kimberly-Clark commits to maintaining an interested persons group to provide a process to increase transparency and trust in this Tier 2 contract. The interested persons group will consist of persons who live, own a business or work within a reasonable proximity to Kimberly-Clark, or who otherwise have an interest in the workings of this Contract. The parties will work together on the composition of the interested persons group.

- B. Kimberly-Clark will schedule a meeting with this group on a semi-annual basis to solicit public comments concerning participation under this Contract. A representative from Kimberly-Clark will take notes during these meetings. These notes will be compiled into minutes that summarize the information discussed at each meeting. Interested group members will have an opportunity to approve or suggest corrections to the minutes at the next meeting. Once approved by the interested persons group, a copy of the minutes will be filed at the Kimberly-Clark offices and a copy of the minutes will be posted on Kimberly-Clark's website for public viewing.
- C. The parties will review the Interested Persons Group after one year. If Kimberly-Clark has taken reasonable steps to secure participation in the Interested Persons Group, and has been unable to generate interest in this group, the parties shall consider other options, including suspending the Interested Persons Group.

#### **IV. SPECIFIC COMMITMENTS**

- A. Kimberly-Clark agrees to submit results of each audit of its Environmental Management System, and each compliance audit done to the WDNR. If a non-conformance or non-compliance is found during either audit, and if Kimberly-Clark seeks to avail itself of the protections under the Deferred Civil Enforcement provision of Green Tier (§. 299.83(6m)(d)), the notification must precede WDNR's discovery of the non-compliance. In addition, steps should be taken as soon as possible to correct the non-compliance and to amend the EMS so as to prevent a re-occurrence of the non-compliance.
- B. Kimberly-Clark also agrees to notify the WDNR within 24 hours after determining the existence of non-compliance discovered outside of the auditing process. If Kimberly-Clark seeks to avail itself of the protections under the Deferred Civil Enforcement provision of Green Tier (§. 299.83(6m)(d)), the notification must precede WDNR's discovery of the non-compliance. Steps should be taken as soon as possible to correct the non-compliance and to amend the EMS so as to prevent a re-occurrence of the non-compliance.
- C. Kimberly-Clark will submit an annual report to the WDNR by January 31 for the preceding calendar year (first report due January 31, 2013 covering calendar year 2012) summarizing accomplishments, and any non-conformances and non-compliances discovered during the preceding year. This annual report shall also provide data on the generic suite of measures that is attached as Appendix 2.

- D. Following receipt of the annual report, the parties will discuss what will be tracked and reported in the following year. The specifics will link to the objectives set for the year, and any corrective actions that become necessary following an audit.
- E. KIMBERLY CLARK will use its best efforts to bring both suppliers and customers together at least annually in a strategic discussion regarding reacting to and progressively leading in areas such as producer responsibility, design for the environment, and sustainability.
- F. In those instances where Kimberly-Clark is operating at a level beyond what is required under law or permit, Kimberly-Clark agrees to exercise good faith efforts to maintain its level of performance.

## **V. DEPARTMENT OF NATURAL RESOURCES' COMMITMENTS**

- A. In exchange for Kimberly-Clark fulfillment of their obligations under this Contract (including the obligation to disclose any non-conformance or non-compliance found during an audit), the WDNR will not seek to bring any civil action, issue any order or seek any judgment nor refer the matter to other State or federal departments or agencies for enforcement related to the environmental responsibilities covered under this Contract against Kimberly-Clark.
- B. If a non-conformance or non-compliance that is reported to the WDNR under IV.A. or B. is not completely corrected, or similar violations occur in the future, the WDNR may, after providing an opportunity for the parties to talk, issue a letter of non-compliance (LON), a notice of non-compliance (NON) or a notice of violation (NOV) with or without terminating this contract. In order to determine whether a second event that would trigger a LON, NON or NOV is a continuation of an uncorrected earlier event, the WDNR shall examine the corrective actions taken by the participant and determine whether they were reasonably designed and implemented.
- C. The WDNR will provide a single point of contact within the agency to Kimberly-Clark during the life of this Contract.
- D. The WDNR authorizes the use of the Environmental Results Program logo on written materials promoting the covered facility(s) or activities in accordance with the Green Tier Logo Style Guide provided at the time this contract is signed. WDNR also agrees to provide a numbered certificate of recognition, and will host a participant web page.

## VI. GENERAL PROVISIONS

- A. **Enforcement.** This Contract is governed by Wisconsin law.
- B. This Contract intends to parallel, to the extent possible, the timing laid out in any existing permits.
- C. **Amendment.** This Contract may be amended only in writing by the principals to this agreement or their successors. An Amendment of this Contract may occur at any time, but may require an additional public notice requirement after the parties have negotiated the new language. If the Amendment is a technical amendment, no additional public notice will be required. If the Amendment contains substantive additions to, or changes to the Contract, the parties agree that the WDNR will provide an additional public notice and may provide an additional public information meeting.
- D. **Construction.** This Contract will be binding, during its effective period, on the parties hereto but is not intended to confer any rights, remedies or obligations upon any other persons.
- E. **Activities Covered Under this Contract.** Kimberly–Clark commits to comply with all current applicable environmental requirements. Any provisions of permits or approvals covered by this Contract that are not specifically superseded by this Contract shall remain in effect.
- F. **Access to Records.** For the purposes of interpreting, understanding or assessing compliance with the Contract, and subject to any legally recognized privilege and reasonable notice, the WDNR; 1) will be permitted access during office hours to inspect and request copies of any records or documents related to the Contract, and 2) may interview directors, officers, employees, and agents of Kimberly–Clark regarding any matters related to the Contract, subject to the reasonable convenience of Kimberly–Clark, and without restraint or interference from Kimberly–Clark.
- G. **Effectiveness and length of contract.** This Contract shall be effective upon signature of both parties and will remain in effect for five (5) years, and it may be extended for periods of up to five (5) years upon the mutual agreement of the parties.
- H. **Termination.** If Kimberly–Clark fails to fulfill its obligations under this Contract in a timely or proper manner, or violates any of its provisions, the WDNR may terminate this Contract by giving thirty (30) days written notice of termination, specifying the alleged violations, and the effective date of the termination. It shall not be terminated if, upon receipt of the notice, Kimberly–Clark promptly cures the alleged violation prior to the end of the thirty (30) day period.

Kimberly-Clark reserves the right to appeal any decision of the WDNR pursuant to this paragraph as provided for under § 227.52, Wis. Stats., or any other applicable law.

If the State fails to fulfill its obligations under this Contract in a timely or proper manner, or violates any of its provisions, Kimberly-Clark shall have the right to terminate this Contract by giving thirty (30) days written notice of termination, specifying the alleged violations, and the effective date of the termination. It shall not be terminated if, upon receipt of the notice, the State promptly cures the alleged violation prior to the end of the thirty (30) day period.

Kimberly-Clark shall have the right to voluntarily terminate this Contract at any time by giving thirty (30) days written notice of termination, specifying the reason for termination and the effective date of the termination.

- I. **Warranty of Authority.** Each of the persons signing below represents and warrants that he/she has the authority to execute this Contract on behalf of the party for which he/she signs.

**Contract for Superior Environmental Performance  
between  
Kimberly-Clark Experimental Mill  
and  
Wisconsin Department of Natural Resources**

IN WITNESS WHEREOF, the parties by their signatures shall cause this contract to be in effect until January 18, 2017.

Signed for and on behalf of: State of Wisconsin  
Department of Natural Resources



By: /s/ Cathy Stepp (JRB) Date: 01/18/2012  
Cathy Stepp  
Secretary

Signed for and on behalf of: Kimberly-Clark Experimental Mill



By: /s/ Susan Tarr Date: 01/18/2012  
Susan Tarr  
Director R&E, Pilot Facility

# Appendix 1

## Record of Superior Environmental Performance

### Energy Reduction Programs

- Implemented an energy savings plan by minimizing use of heating, ventilating and air conditioning when building is not occupied. Also shut off make-up air units in the EDU and CHF areas whenever possible. Normally one of the two run when the building is occupied, none when the building is not occupied.
- Replaced a total of 192 400-watt metal halide fixtures with high efficiency fluorescent fixtures since 2006 (a total reduction of 115,316 kilowatt hours). Replaced 128 250-watt metal halide fixtures with high efficiency fluorescent fixtures during 2008. The yearly reduction in kilowatt hours is expected to be 50,252.
- Effluent “sludge” from the papermaking process is sent via Neenah Paper to Fox Valley Energy (formerly Minergy), which recycles the sludge into green steam for the X-Mill, thereby reducing the X-Mill’s natural gas consumption and carbon dioxide emissions into the atmosphere.
- The X-Mill continues to employ a fork truck usage reduction program implemented during 2007, thereby reducing the amount of propane fuel utilized and carbon dioxide emissions into the atmosphere.
- An ultrasonic air leak audit was conducted in November 2008 to identify leaks within the X-Mill compressed air equipment. As of first quarter 2009, each of the leaks identified has been corrected. The identification and correction of the leaks has reduced the amount of electricity used to run the equipment to meet the operational needs of the X-Mill.

### Water Reduction Programs

- Reduced operating pressure for equipment wash up hoses from 160 psi to 60 psi, thereby reducing water used for machine washing by approximately 50%.
- Installed a closed loop system on an air compressor (total savings – 6.3 million gallons per year).
- Reclaim cooling water from air conditioners for “next day use” in the tissue making process (total savings – 3.8 million gallons per year).

### Waste Minimization and Management

- Recycle 100% of manufacturing waste
  - Base sheet (tissue broke)
  - Cardboard
  - Poly-wrap
  - Packaging material
  - Scrap wood product
- Recycle 100% Universal Waste
  - Lamps and bulbs
  - Batteries
- Recycle 100% of used oil and anti-freeze

- Recycle 100% scrap metal waste
- Recycle 100% office waste
- Replaced the parts washer with a unit that does not require regular servicing and fluid change-outs (spent fluid was historically treated as hazardous waste). The current unit requires an occasional change-out of a filter versus regular disposal of waste fluid.
- Implemented a program to puncture and drain aerosol cans and recycle empty cans with scrap metal.
- Through a chemical approval process, chemical inventory has been reduced by 59% since 2004. The chemical management process allows the X-Mill to control chemical waste volume. In addition, when possible, chemicals are ordered in smaller quantities to minimize the amount of waste.

#### Land Use

- In April 2009, finalized the sale of an approximately one-acre portion of our parking lot on the west side of the property to the City of Neenah for re-development into a permanent green space.
- As a result of City of Neenah re-development activities, the Experimental Mill has negotiated with the local utility provider to remove and relocate power lines currently located on supports within Little Lake Butte des Morts.

#### **Commitment to Superior Environmental Performance**

The X-Mill will commit to the following measures to maintain and improve our superior environmental performance:

- Commitment to training employees on their roles to assist in maintaining a facility that is environmentally compliant
- Continue our commitment to the X-Mill EMS, which is consistent with the “functional equivalency” requirements of Wisconsin Statute §299.83(1)(dg).
- Continue reduction of water and energy consumption
- Maintain compliance with X-Mill Environmental Policy Statement
- Continue ground water remediation activities while working toward site closure
- Continue waste minimization efforts

## Appendix 2

The following Indicators are proposed for all Green Tier participants. In addition to this Generic List, it is expected that other indicators/metrics will come out of your Environmental Management System and would be used to document accomplishments. This Generic List is meant to help Kimberly-Clark and the DNR document the relative success of the program.

### Environmental Indicators

Some of the environmental indicators are already provided to the DNR. You would not be asked to report this information again if you have already reported it.

#### 1.1 Water

- 1.1.1 Total water use
- 1.1.2 Total amount of phosphorous released into water
- 1.1.3 Total waste water produced

#### 1.2 Air Emissions

- 1.2.1 Total greenhouse gas emissions
- 1.2.2 Total emissions of ozone-depleting substances
- 1.2.3 Total air emissions

#### 1.3 Waste

- 1.3.1 Total solid waste produced
- 1.3.2 Total percentage of material ending up as waste
- 1.3.3 Amount/percentage of waste that is hazardous
- 1.3.4 Amount of mercury lost or released into the environment
- 1.3.5 Amount/percentage of waste recycled

#### 1.4 Energy

- 1.4.1 Total energy used, listed by source
- 1.4.2 Amount/percentage of energy from renewable resources

#### 1.5 Transportation

- 1.5.1 Total fuel consumption
- 1.5.2 Amount/percentage of vehicles using alternative fuels

#### 1.6 Spills

- 1.6.1 Number of spills
- 1.6.2 Total amount of hazardous substances released due to spills

#### 1.7 Land Use

- 1.7.1 Total amount of land owned and percentage that is permeable (not paved or covered)

#### 1.8 TRI

- 1.8.1 Total TRI emissions

## **Economic Metrics**

### **2.1 Total sales**

2.1.1 Revenue brought in from annual sales before subtracting any costs.

### **2.2 Profit or loss**

2.2.1 Quantify the profit or loss during the most recent fiscal year

### **2.3 Workforce changes**

2.3.1 Number of people employed, and the change over the previous year (using Jan 31 as the baseline date)

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## **Social Metrics**

### **3.1 Alternative Transportation**

3.1.1 Amount provided to support alternative transportation options for employees

### **3.2 Income inequality**

3.2.1 The multiple between lowest paid employee and highest paid employee

### **3.3 In-State purchases**

3.3.1 Percent of purchases made from companies in the state