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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 1

IN THE MATTER OF:)

BJAT, LLC Superfund Site)

BJAT, LLC and Hasco Associates, LP)

Respondents)

Proceeding Under Sections 104, 106(a),)
107 and 122 of the Comprehensive)
Environmental Response, Compensation,)
and Liability Act, 42 U.S.C. §§ 9604,)
9606(a), 9607 and 9622)
_____)

CERCLA Docket No. 01-2018-0009

**ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMOVAL ACTION**

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent (“Settlement”) is entered into voluntarily by the United States Environmental Protection Agency (“EPA”) and BJAT, LLC and Hasco Associates, LP (“Respondents”). This Settlement provides for the performance of a removal action by Respondents and the payment of Future Response Costs as defined in Paragraph 8 incurred by the United States at or in connection with the “BJAT, LLC Superfund Site” (the “Site”) generally located at 300 Fisher Street in Franklin, Massachusetts.

2. This Settlement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622 (CERCLA). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to Regional Administrators by EPA Delegation Nos. 14-14C (Administrative Actions Through Consent Orders, Jan. 18, 2017) and 14-14D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, Jan. 18, 2017). These Authorities were further delegated by the Regional Administrator of EPA Region 1 to the Director, Office of Site Remediation and Restoration, on September 3, 1996, EPA Delegation Numbers 14-14-C and 14-14-D, and on March 1, 2002 (EPA Delegation Number 14-14-A).

3. EPA has notified the Commonwealth of Massachusetts (the “State”) of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. EPA and Respondents recognize that this Settlement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement do not constitute an admission of any liability or fact. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement, the validity of the findings of fact, conclusions of law, and determinations in Sections IV (Findings of Fact) and V (Conclusions of Law and Determinations) of this Settlement. Respondents agree to comply with and be bound by the terms of this Settlement and further agree that they will not contest the basis or validity of this Settlement or its terms.

II. PARTIES BOUND

5. This Settlement is binding upon EPA and upon Respondents and their successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter Respondents’ responsibilities under this Settlement. Respondents are liable for carrying out all activities required by this Settlement.

6. The undersigned representatives of Respondents certify that he or she is fully authorized to enter into the terms and conditions of this Settlement and to execute and legally bind Respondents to this Settlement.

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7. Respondents shall provide a copy of this Settlement to each contractor hired to perform the Work required by this Settlement and to each person representing Respondents with respect to the Site or the Work, and shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Settlement. Respondents or their contractors shall provide written notice of the Settlement to all subcontractors hired to perform any portion of the Work required by this Settlement. Respondents shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Work in accordance with the terms of this Settlement.

III. DEFINITIONS

8. Unless otherwise expressly provided in this Settlement, terms used in this Settlement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement or its attached appendices, the following definitions shall apply:

“Action Memorandum” shall mean the EPA Action Memorandum relating to the Site signed on August 7, 2017, by the Regional Administrator, EPA Region 1, or his/her delegate, and all attachments thereto. The Action Memorandum is attached as Appendix A.

“Affected Property” shall mean all real property at the Site and any other real property where EPA determines, at any time, that access or land, water, or other resource use restrictions are needed to implement the removal action, including, but not limited to, 300 Fisher Street.

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

“Day” or “day” shall mean a calendar day. In computing any period of time under this Settlement, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall mean the effective date of this Settlement as provided in Section XXIX.

“EPA” shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States, including the Agency for Toxic Substances and Disease Registry (ATSDR), incurs in reviewing or developing deliverables submitted pursuant to this Settlement, in overseeing implementation of the Work, or otherwise implementing, overseeing,

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or enforcing this Settlement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Section IX (Property Requirements) (including, but not limited to, cost of attorney time and any monies paid to secure or enforce access, including, but not limited to, the amount of just compensation), Section XIII (Emergency Response and Notification of Releases), Paragraph 81 (Work Takeover), Paragraph 106 (Access to Financial Assurance), community involvement (including, but not limited to, the costs of any technical assistance grant under Section 117(e) of CERCLA, 42 U.S.C. § 9617(e), Section XV (Dispute Resolution), and all litigation costs.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

“National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“Paragraph” shall mean a portion of this Settlement identified by an Arabic numeral or an upper or lower case letter.

“Parties” shall mean EPA and Respondents.

“RCRA” shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

“Respondents” shall mean BJAT, LLC (“BJAT”) and Hasco Associates, LP (“Hasco”).

“Section” shall mean a portion of this Settlement identified by a Roman numeral.

“Settlement” shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto (listed in Section XXVIII (Integration/Appendices)). In the event of conflict between this Settlement and any appendix, this Settlement shall control.

“Site” shall mean the BJAT, LLC Superfund Site, which for purposes of this Settlement shall mean the parcel encompassing approximately 18.3 acres, located at 300 Fisher Street in the Town of Franklin, Norfolk County, Massachusetts, as described in a deed recorded at the Norfolk County Registry of Deeds at Book 28844 Page 299 and depicted generally on the map attached as Appendix B.

“State” shall mean the Commonwealth of Massachusetts.

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“Statement of Work” or “SOW” shall mean the document describing the activities Respondents must perform to implement the removal action pursuant to this Settlement, as set forth in Appendix C, and any modifications made thereto in accordance with this Settlement.

“Transfer” shall mean to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

“Waste Material” shall mean (a) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (d) any “hazardous waste” under M.G.L. c.21C, § 2.

“Work” shall mean all activities and obligations Respondents are required to perform under this Settlement except those required by Section XI (Record Retention).

IV. FINDINGS OF FACT

9. The Site, which was added to the National Priorities List in September 2015, is located at 300 Fisher Street in Franklin, Norfolk County, Massachusetts and is further identified by the Franklin Tax Assessor as Lot Parcel ID 296-210 on Map 296, Lot 210 and in the deed recorded at the Norfolk Registry of Deeds in Book 28844, Page 299.

10. The 18.3-acre Site parcel is largely wooded and/or wetland and is bounded to the northeast by commercial properties including the Town of Franklin Department of Public Works (DPW) facility; to the east and southeast by railroad tracks and residential properties; to the southwest by Interstate 1-495; and to the northwest by several parcels owned by the Town of Franklin, consisting of open water, wetlands, woodland, and recreational areas.

11. The Site is the former location of various industries, with operations dating back to 1899, all of which preceded Respondents ownership. Known operations specifically include beet sugar refining, rubber manufacturing, a poultry farm/market, and plastics manufacturing.

12. Hasco acquired a fee interest in the Site in December 1985. At the time of acquisition the property contained a vacant factory building. Hasco has never conducted business at the Site. Hasco did not conduct any activities at the Site during its ownership.

13. BJAT acquired the Site from Hasco in March 2006. BJAT has never conducted business at the Site.

14. BJAT's consultant conducted the following response actions: a Phase I Environmental Site Assessment (ESA) completed by Corporate Environmental Advisors (CEA) in December 2005; a Limited Subsurface Investigation (LSI) completed by PES Associates, Inc.

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(PES) in April 2007; a second LSI completed by PES in December 2007; a Phase I Initial Site Investigation (SI) completed by Norfolk Ram Group, LLC (Norfolk) in May 2008; a Phase II Comprehensive Site Assessment (CSA) completed by Norfolk in August 2012; a Remedial Action Measure (RAM) completed in December 2016.

15. In May 2007, BJAT notified the Massachusetts Department of Environmental Protection of a reportable concentration release of barium, cadmium, chromium, and lead associated with the Site and the Site was assigned release tracking number (RTN) 2-16683.

16. In July 2010, MassDEP issued a Notice of Responsibility to BJAT requiring an immediate response action to address the Imminent Hazard levels of lead and arsenic in soil. The response action consisted of installing fencing and warning signage, and conducting further site assessment activities (sampling). Further site assessment activities and fence repairs and extensions were completed by BJAT during the 2010 through 2015 time period.

17. The State of Massachusetts requested EPA consider the Site for inclusion on the National Priorities List ("NPL"). EPA conducted a Preliminary Assessment Site inspection from February 2013 through September 2013 and completed a Final Site Investigation Report on July 31, 2014 to determine NPL status. EPA proposed the Site to the NPL on March 26, 2015, and it was included in the final listing of NPL sites on September 30, 2015.

18. On December 13, 2015, there was a fire in the building at the Site. The fire smoldered for a several days, but contaminants of concern were not detected along the perimeter of the Site in air samples collected by EPA. In the fall of 2016, BJAT demolished the building under the state hazardous waste program, Mass. Gen. L. c. 21E.

19. In January 2016, EPA's Emergency Planning and Response Branch was referred to the Site to address the imminent hazard ("IH") areas, which pose a health hazard to trespassers that frequent the Site. Preliminary sampling of the IH areas was completed in May 2016. The results of testing performed at EPA's New England Regional Laboratory ("NERL") on surface soil samples identifies the presence of the hazardous substance lead in 14 surface samples and 9 subsurface samples at a concentration that exceeds EPA's Removal Management Level that corresponds to either a 10^{-4} risk level for carcinogens or a Hazard Quotient of 3 for non-carcinogens in industrial settings.

20. NERL data also shows that several hazardous substances are present in all drum and waste samples, including bis(2-ethylhexyl)phthalate in one drum at 170 million ppm, which exceeds the industrial RML of 16 million ppm. In addition, the waste in this drum is a hazardous waste, as the TCLP test yielded a concentration of 3.2 ppm for cadmium, which exceeds the regulatory limit of 1.0 ppm. Lead is present in two of the four waste samples at a concentrations of 5370 ppm and 7270 ppm, each of which exceed the RML of 800 ppm.

21. A Closure Memorandum dated July 27, 2016 formally documented the conclusion of the removal evaluation, and recommended that a Removal Action is appropriate because conditions at this Site meet the criteria in the National Contingency Plan for initiating a removal action.

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22. An Action Memorandum was signed on August 7, 2017 approving a time-critical removal action at the Site to address hazardous substances present in drum waste and soil at the Site, which if not addressed, would continue to pose a threat to human health and the environment. A copy of the Action Memorandum is appended hereto as Appendix A, and is incorporated herein.

23. BJAT was formed on March 9, 2006 under Mass. Gen. L. c. 156C and is in good standing. HB Properties, LLC (HB Properties) is the sole member and manager of BJAT. HB Properties was formed on May 6, 1998 and is in good standing. Hasco was formed on November 2, 1981 under Mass. Gen. L. c. 109. Hasco transferred title to the Site property to BJAT on March 28, 2006.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

24. Based on the Findings of Fact set forth above, and the administrative record, EPA has determined that:

- a. The BJAT, LLC Site is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
- b. The contamination found at the Site, as identified in the Findings of Fact above, includes “hazardous substance(s)” as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
- c. Respondents are a “person” as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
- d. Respondents are a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). Respondents are the “owner” and/or “operator” of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).
- e. The conditions described in the Findings of Fact above constitute an actual or threatened “release” of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
- f. The removal action required by this Settlement is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Settlement, will be consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

VI. SETTLEMENT AGREEMENT AND ORDER

25. Based upon the Findings of Fact, Conclusions of Law, and Determinations set forth above, and the administrative record, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Settlement, including, but not limited to, all appendices to this Settlement and all documents incorporated by reference into this Settlement.

, VII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR

26. Respondents shall retain one or more contractors or subcontractors to perform the Work and shall notify EPA of the names, titles, addresses, telephone numbers, email addresses, and qualifications of such contractors or subcontractors within 7 days after the Effective Date. Respondents shall also notify EPA of the names, titles, contact information, and qualifications of any other contractors or subcontractors retained to perform the Work at least 7 days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondents. If EPA disapproves of a selected contractor or subcontractor, Respondents shall retain a different contractor or subcontractor and shall notify EPA of that contractor's or subcontractor's name, title, contact information, and qualifications within 7 days after EPA's disapproval. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor demonstrates compliance with ASQ/ANSI E4:2014 "Quality management systems for environmental information and technology programs – Requirements with guidance for use" (American Society for Quality, February 2014), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, Reissued May 2006) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review for verification based on objective assessment criteria (e.g., experience, capacity, technical expertise) and that they do not have a conflict of interest with respect to the project.

27. Within 7 days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Settlement and shall submit to EPA the designated Project Coordinator's name, title, address, telephone number, email address, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator who does not meet the requirements of Paragraph 26. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, title, contact information, and qualifications within 7 days following EPA's disapproval. Notice or communication relating to this Settlement from EPA to Respondents' Project Coordinator shall constitute notice or communication to Respondents.

28. EPA has designated Rich Haworth of the Emergency Planning and Response Branch, Region 1, as its On-Scene Coordinator ("OSC"). EPA and Respondents shall have the right, subject to Paragraph 27, to change their respective designated OSC or Project Coordinator. Respondents shall notify EPA 7 days before such a change is made. The initial notification by Respondents may be made orally, but shall be promptly followed by a written notice.

29. The OSC shall be responsible for overseeing Respondents' implementation of this Settlement. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement, or to direct any other

removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

VIII. WORK TO BE PERFORMED

30. Respondents shall perform, at a minimum, all actions necessary to implement the Action Memorandum as set forth in the SOW. The actions to be implemented generally include, but are not limited to, the following: development of a site-specific Health and Safety Plan, site preparation, clearing and grubbing the area if necessary; excavation, sampling, staging and covering of drums and other containers, waste and approximately 2,114 tons of contaminated soil; treatment of excavated soil on-site if appropriate; placement of high visibility fence at the limits of excavated areas, excavation of a limited number of test pits; air monitoring; and shipment of waste, excavated soil, and other contaminated items that may be encountered off-site for disposal, treatment, re-use or recycling.

31. The Respondents shall not interfere with the implementation of the RI/FS and associated field work implemented by EPA or its contractors. EPA will make reasonable efforts to schedule well installation in a manner that will not cause material delays in Respondents completing the removal action, and Respondents and EPA shall coordinate on any necessary modifications to the schedule.

32. For any regulation or guidance referenced in the Settlement, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Respondents receive notification from EPA of the modification, amendment, or replacement.

33. Work Plan and Implementation

a. Within 7 days after EPA's approval of Respondents' Supervising Contractor, in accordance with Paragraph 34 (Submission of Deliverables), Respondents shall submit to EPA for approval, with a copy to MassDEP, a draft work plan for performing the removal action (the "Removal Work Plan") generally described in Paragraph 30 above. The draft Removal Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement.

b. EPA may approve, disapprove, require revisions to, or modify the draft Removal Work Plan in whole or in part. If EPA requires revisions, Respondents shall submit a revised draft Removal Work Plan within 7 days after receipt of EPA's notification of the required revisions. Respondents shall implement the Removal Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Removal Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Settlement.

c. Upon approval or approval with modifications of the Removal Work Plan Respondents shall commence implementation of the Work in accordance with the schedule

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included therein. Respondents shall not commence or perform any Work except in conformance with the terms of this Settlement.

d. Unless otherwise provided in this Settlement, any additional deliverables that require EPA approval under the SOW or the Removal Work Plan shall be reviewed and approved by EPA in accordance with this Paragraph.

34. Submission of Deliverables

a. General Requirements for Deliverables

(1) Except as otherwise provided in this Settlement, Respondents shall direct all submissions required by this Settlement to OSC Richard Haworth at 5 Post Office Sq., Suite 100 (02-2), Boston, MA 02109-3912, haworth.richard@epa.gov with a copy to MassDEP Project Manager Janet Waldron at One Winter St., 6th Floor, Boston, MA 02108, Janet.Waldron@state.ma.us. Respondents shall submit all deliverables required by this Settlement, the attached SOW, or any approved work plan to EPA and MassDEP in accordance with the schedule set forth in such plan.

(2) Respondents shall submit all deliverables in electronic form. Technical specifications for sampling and monitoring data and spatial data are addressed in Paragraph 34.b. All other deliverables shall be submitted to EPA and MassDEP in the form specified by the OSC. If any deliverable includes maps, drawings, or other exhibits that are larger than 8.5 by 11 inches, Respondents shall also provide EPA and MassDEP with paper copies of such exhibits.

b. Technical Specifications for Deliverables

(1) Sampling and monitoring data should be submitted in standard Regional Electronic Data Deliverable (EDD) format (Ex. ".xlsx" or ".csv" files). Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.

(2) Spatial data, including spatially-referenced data and geospatial data, should be submitted: (a) in the ESRI File Geodatabase format; and (b) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 (NAD83) or World Geodetic System 1984 (WGS84) as the datum. If applicable, submissions should include the collection method(s). Projected coordinates may optionally be included but must be documented. Spatial data should be accompanied by metadata, and such metadata should be compliant with the Federal Geographic Data Committee (FGDC) Content Standard for Digital Geospatial Metadata and its EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor (EME), complies with these FGDC and EPA metadata requirements and is available at <https://edg.epa.gov/EME/>.

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(3) Each file must include an attribute name for each site unit or subunit submitted. Consult <https://www.epa.gov/geospatial/geospatial-policies-and-standards> for any further available guidance on attribute identification and naming.

(4) Spatial data submitted by Respondents does not, and is not intended to, define the boundaries of the Site.

35. **Health and Safety Plan.** Seven (7) days after EPA approval of the Supervising Contractor and Project Coordinator, Respondents shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-site work under this Settlement. This plan shall be prepared in accordance with “OSWER Integrated Health and Safety Program Operating Practices for OSWER Field Activities,” Pub. 9285.0-OIC (Nov. 2002), available on the NSCEP database at <https://www.epa.gov/nscep>, and “EPA’s Emergency Responder Health and Safety Manual,” OSWER Directive 9285.3-12 (July 2005 and updates), available at <https://www.epaossc.org/HealthSafetyManual/manual-index.htm>. In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

36. **Quality Assurance, Sampling, and Data Analysis**

a. Respondents shall use quality assurance, quality control, and other technical activities and chain of custody procedures for all samples consistent with “EPA Requirements for Quality Assurance Project Plans (QA/R5)” EPA/240/B-01/003 (March 2001, reissued May 2006), “Guidance for Quality Assurance Project Plans (QA/G-5)” EPA/240/R-02/009 (December 2002), and “Uniform Federal Policy for Quality Assurance Project Plans,” Parts 1-3, EPA/505/B-04/900A-900C (March 2005).

b. Within 14 days after the Effective Date, Respondents shall submit a Sampling and Analysis Plan to EPA for review and approval, with a copy to MassDEP. This plan shall consist of a Field Sampling Plan (FSP) and a Quality Assurance Project Plan (QAPP) that is consistent with the SOW, the NCP, and applicable guidance documents, including, but not limited to, “Guidance for Quality Assurance Project Plans (QA/G-5)” EPA/240/R-02/009 (December 2002), “EPA Requirements for Quality Assurance Project Plans (QA/R-5)” EPA/240/B-01/003 (March 2001, reissued May 2006), and “Uniform Federal Policy for Quality Assurance Project Plans,” Parts 1-3, EPA/505/B-04/900A-900C (March 2005). Upon its approval by EPA, the Sampling and Analysis Plan shall be incorporated into and become enforceable under this Settlement.

c. Respondents shall ensure that EPA and State personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Respondents in implementing this Settlement. In addition, Respondents shall ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPP for quality

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assurance, quality control, and technical activities that will satisfy the stated performance criteria as specified in the QAPP and that sampling and field activities are conducted in accordance with the Agency's "EPA QA Field Activities Procedure," CIO-2105-P-02.1 (9/23/2014) available at <https://www.epa.gov/irmpoli8/epa-qa-field-activities-procedures>. Respondents shall ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Settlement meet the competency requirements set forth in EPA's "Policy to Assure Competency of Laboratories, Field Sampling, and Other Organizations Generating Environmental Measurement Data under Agency-Funded Acquisitions" available at <https://www.epa.gov/measurements/documents-about-measurement-competency-under-acquisition-agreements> and that the laboratories perform all analyses according to accepted EPA methods. Accepted EPA methods consist of, but are not limited to, methods that are documented in the EPA's Contract Laboratory Program (<https://www.epa.gov/clp>), SW 846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (<https://www.epa.gov/hw-sw846>), "Standard Methods for the Examination of Water and Wastewater" (<http://www.standardmethods.org/>), 40 C.F.R. Part 136, "Air Toxics - Monitoring Methods" (<https://www3.epa.gov/ttnamti1/airtox.html>).

d. However, upon approval by EPA, Respondents may use other appropriate analytical method(s), as long as (i) quality assurance/quality control (QA/QC) criteria are contained in the method(s) and the method(s) are included in the QAPP, (ii) the analytical method(s) are at least as stringent as the methods listed above, and (iii) the method(s) have been approved for use by a nationally recognized organization responsible for verification and publication of analytical methods, e.g., EPA, ASTM, NIOSH, OSHA, etc. Respondents shall ensure that all laboratories they use for analysis of samples taken pursuant to this Settlement have a documented Quality System that complies with ASQ/ANSI E4:2014 "Quality management systems for environmental information and technology programs - Requirements with guidance for use" (American Society for Quality, February 2014), and "EPA Requirements for Quality Management Plans (QA/R-2)" EPA/240/B-01/002 (March 2001, reissued May 2006), or equivalent documentation as determined by EPA. EPA may consider Environmental Response Laboratory Network (ERLN) laboratories, laboratories accredited under the National Environmental Laboratory Accreditation Program (NELAP), or laboratories that meet International Standardization Organization (ISO 17025) standards or other nationally recognized programs as meeting the Quality System requirements. Respondents shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Settlement are conducted in accordance with the procedures set forth in the QAPP approved by EPA.

e. Upon request, Respondents shall provide split or duplicate samples to EPA or its authorized representatives. Respondents shall notify EPA not less than 7 days in advance of any sample collection activity unless shorter notice is agreed to by EPA. In addition, EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall provide to Respondents split or duplicate samples of any samples it takes as part of EPA's oversight of Respondents' implementation of the Work.

f. Respondents shall submit to EPA the results of all sampling and/or tests or other data obtained or generated by or on behalf of Respondents with respect to the Site and/or the implementation of this Settlement.

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g. Respondents waive any objections to any data gathered, generated, or evaluated by EPA, the State or Respondents in the performance or oversight of the Work that has been verified according to the QA/QC procedures required by the Settlement or any EPA-approved Work Plans or Sampling and Analysis Plans. If Respondents object to any other data relating to the Work, Respondents shall submit to EPA a report that specifically identifies and explains their objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 15 days after the monthly progress report containing the data.

37. **Progress Reports.** Respondents shall submit a written progress report to EPA, with a copy to MassDEP, concerning actions undertaken pursuant to this Settlement on a weekly basis, or as otherwise requested by EPA, from the date of receipt of EPA's approval of the Removal Work Plan until issuance of Notice of Completion of Work pursuant to Section XXVII, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

38. **Final Report.** Within 30 days after completion of all Work required by this Settlement, other than continuing obligations listed in Paragraph 112 (notice of completion), Respondents shall submit for EPA review and approval, with a copy to MassDEP, a final report summarizing the actions taken to comply with this Settlement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a responsible corporate official of Respondents or Respondents' Project Coordinator: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

39. **Off-Site Shipments**

a. Within 14 days of the Effective Date, the Respondents shall submit a Transportation and Disposal ("T&D") Plan for EPA approval. The T&D Plan shall include a

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provision for notice to the OSC of any disposal shipments no less than three (3) working days prior to the event.

b. Respondents may ship hazardous substances, pollutants and contaminants from the Site to an off-Site facility only if it complies with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents will be deemed to be in compliance with CERCLA § 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if Respondents obtain a prior determination from EPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b).

c. Respondents may ship Waste Material from the Site to an out-of-state waste management facility only if, prior to any shipment, they provide written notice to the appropriate state environmental official in the receiving facility's state and to the OSC. This written notice requirement shall not apply to any off-Site shipments when the total quantity of all such shipments will not exceed ten cubic yards. The written notice must include the following information, if available: (1) the name and location of the receiving facility; (2) the type and quantity of Waste Material to be shipped; (3) the schedule for the shipment; and (4) the method of transportation. Respondents also shall notify the state environmental official referenced above and the OSC of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Respondents shall provide the written notice after the award of the contract for the removal action and before the Waste Material is shipped.

d. Respondents may ship Investigation Derived Waste (IDW) from the Site to an off-Site facility only if it complies with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), 40 C.F.R. § 300.440, EPA's "Guide to Management of Investigation Derived Waste," OSWER 9345.3-03FS (Jan. 1992), and any IDW-specific requirements contained in the Action Memorandum. Wastes shipped off-Site to a laboratory for characterization, and RCRA hazardous wastes that meet the requirements for an exemption from RCRA under 40 C.F.R. § 261.4(e) shipped off-Site for treatability studies, are not subject to 40 C.F.R. § 300.440.

IX. PROPERTY REQUIREMENTS

40. Until the completion of all Work required by this Settlement, Respondents shall, with respect to Affected Property: (i) provide the EPA, the State, and their representatives, contractors, and subcontractors with access at all reasonable times to such Affected Property to conduct any activity regarding the Settlement, and (ii) refrain from using such Affected Property in any manner that EPA determines will pose an unacceptable risk to human health or to the environment due to exposure to Waste Material, or interfere with or adversely affect the implementation, integrity, or protectiveness of the removal action.

41. In the event of any Transfer of the Affected Property, unless EPA otherwise consents in writing, Respondents shall continue to comply with their obligations under the Settlement, including their obligation to secure access and ensure compliance with any land, water, or other resource use restrictions regarding the Affected Property.

42. Notwithstanding any provision of the Settlement, EPA retains all of its access authorities and rights, as well as all of its rights to require land, water, or other resource use restrictions, including enforcement authorities related thereto under CERCLA, RCRA, and any other applicable statute or regulations.

X. ACCESS TO INFORMATION

43. Respondents shall provide to EPA, upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within Respondents' possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Settlement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Work. Respondents shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

44. Privileged and Protected Claims

a. Respondents may assert all or part of a Record requested by EPA is privileged or protected as provided under federal law, in lieu of providing the Record, provided Respondents comply with Paragraph 44.b, and except as provided in Paragraph 44.c.

b. If Respondents assert such a privilege or protection, they shall provide EPA with the following information regarding such Record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, of each addressee, and of each recipient; a description of the Record's contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a Record, Respondents shall provide the Record to EPA in redacted form to mask the privileged or protected portion only. Respondents shall retain all Records that they claim to be privileged or protected until EPA has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Respondents' favor.

c. Respondents may make no claim of privilege or protection regarding: (1) any data regarding the Site, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidences conditions at or around the Site; or (2) the portion of any Record that Respondents are required to create or generate pursuant to this Settlement.

45. **Business Confidential Claims.** Respondents may assert that all or part of a Record provided to EPA under this Section or Section XI (Record Retention) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Respondents shall segregate and clearly identify all Records or parts thereof submitted under this Settlement for which Respondents assert business confidentiality claims. Records that Respondents claim to be confidential business

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information will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Respondents that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such Records without further notice to Respondents.

46. Notwithstanding any provision of this Settlement, EPA retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XI. RECORD RETENTION

47. Until 10 years after EPA provides Respondents with notice, pursuant to Section XXVII (Notice of Completion of Work), that all Work has been fully performed in accordance with this Settlement, Respondents shall preserve and retain all non-identical copies of Records (including Records in electronic form) now in their possession or control, or that come into their possession or control, that relate in any manner to their liability under CERCLA with regard to the Site, provided, however, that if Respondents are potentially liable as an owner or operator of the Site, they must retain, in addition, all Records that relate to the liability of any other person under CERCLA with respect to the Site. Respondents must also retain, and instruct their contractors and agents to preserve, for the same period of time specified above, all non-identical copies of the last draft or final version of any Records (including Records in electronic form) now in their possession or control or that come into their possession or control that relate in any manner to the performance of the Work, provided, however, that Respondents (and their contractors and agents) must retain, in addition, copies of all data generated during the performance of the Work and not contained in the aforementioned Records required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

48. At the conclusion of the document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such Records, and, upon request by EPA, and except as provided in Paragraph 44 (Privileged and Protected Claims), Respondents shall deliver any such Records to EPA.

49. Respondents certify that, to the best of their knowledge and belief, after thorough inquiry, they have not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records (other than identical copies) relating to their potential liability regarding the Site since notification of potential liability by EPA or the State and that they have fully complied with any and all EPA and State requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927, and state law.

XII. COMPLIANCE WITH OTHER LAWS

50. Nothing in this Settlement limits Respondents' obligation to comply with the requirements of all applicable state and federal laws and regulations, except as provided in

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Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-site actions required pursuant to this Settlement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements (ARARs) under federal environmental or state environmental or facility siting laws.

51. No local, state, or federal permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work), including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work that is not on-site requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. Respondents may seek relief under the provisions of Section XVI (Force Majeure) for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval required for the Work, provided that they have submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals. This Settlement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

52. **Emergency Response.** If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the Site that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release. Respondents shall take these actions in accordance with all applicable provisions of this Settlement, including, but not limited to, the Health and Safety Plan. Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, the Regional Duty Officer, Emergency Planning and Response Branch, EPA, Region 1, at (617) 918-1236, and the EPA Regional Emergency 24-hour telephone number, at (617) 723-8928, of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondents shall reimburse EPA for all costs of such response action not inconsistent with the NCP pursuant to Section XIV (Payment of Response Costs).

53. **Release Reporting.** Upon the occurrence of any event during performance of the Work that Respondents are required to report pursuant to Section 103 of CERCLA, 42 U.S.C. § 9603, or Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11004, Respondents shall immediately orally notify the OSC or, in the event of his/her unavailability, the Regional Duty Officer, Emergency Planning and Response Branch, EPA, Region 1, at (617) 918-1236, and the EPA Regional Emergency 24-hour telephone number, at (617) 723-8928, and the National Response Center at (800) 424-8802. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004.

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54. For any event covered under this Section, Respondents shall submit a written report to EPA within 7 days after the onset of such event, setting forth the action or event that occurred and the measures taken, and to be taken, to mitigate any release or threat of release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release or threat of release.

XIV. PAYMENT OF RESPONSE COSTS

55. **Payments for Future Response Costs.** Respondents shall pay to EPA all Future Response Costs not inconsistent with the NCP.

a. On a periodic basis, EPA will send Respondents a bill requiring payment that includes an Itemized Cost Summary which includes direct and indirect costs incurred by EPA, and its contractors and subcontractors. Respondents shall make all payments within 30 days after Respondents' receipt of each bill requiring payment, except as otherwise provided in Paragraph 57 (Contesting Future Response Costs).

b. Respondents shall make payment to EPA by Fedwire Electronic Funds Transfer (EFT) to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

and shall reference Site/Spill ID Number 01MC and the EPA docket number for this action.

c. At the time of payment, Respondents shall send notice that payment has been made to the OSC, and to the EPA Cincinnati Finance Office by email at cinwd_acctsreceivable@epa.gov, or by mail to

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

And

Stacy Greendlinger, Enforcement Coordinator
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100 (02-2)
Boston, MA 02109-3912

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Such notice shall reference Site/Spill ID Number 01MC and the EPA docket number for this action.

d. **Deposit of Future Response Costs Payments.** The total amount to be paid by Respondents pursuant to Paragraph 55.a shall be deposited by EPA in the EPA Hazardous Substance Superfund.

56. **Interest.** In the event that any payment for Future Response Costs is not made by the date required, Respondents shall pay Interest on the unpaid balance. The Interest on Future Response Costs shall begin to accrue on the date of the bill and shall accrue through the date of Respondents' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVII (Stipulated Penalties).

57. **Contesting Future Response Costs.** Respondents may initiate the procedures of Section XV (Dispute Resolution) regarding payment of any Future Response Costs billed under Paragraph 55 (Payments for Future Response Costs) if it determines that EPA has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if it believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. To initiate such dispute, Respondents shall submit a Notice of Dispute in writing to the OSC within 30 days after receipt of the bill. Any such Notice of Dispute shall specifically identify the contested Future Response Costs and the basis for objection. If Respondents submit a Notice of Dispute, Respondents shall within the 30-day period, also as a requirement for initiating the dispute, (a) pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 55, and (b) establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation (FDIC) and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the OSC a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. If EPA prevails in the dispute, within 5 days after the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 55. If Respondents prevail concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which it did not prevail to EPA in the manner described in Paragraph 55. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

XV. DISPUTE RESOLUTION

58. Unless otherwise expressly provided for in this Settlement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement. The Parties shall attempt to resolve any disagreements concerning this Settlement expeditiously and informally.

59. **Informal Dispute Resolution.** If Respondents object to any EPA action taken pursuant to this Settlement, including billings for Future Response Costs, they shall send EPA a written Notice of Dispute describing the objection(s) within 7 days after such action. EPA and Respondents shall have 14 days from EPA's receipt of Respondents' Notice of Dispute to resolve the dispute through informal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement.

60. **Formal Dispute Resolution.** If the Parties are unable to reach an agreement within the Negotiation Period, Respondents shall, within 20 days after the end of the Negotiation Period, submit a statement of position to the OSC. EPA may, within 20 days thereafter, submit a statement of position. Thereafter, an EPA management official at the Division Director level or higher will issue a written decision on the dispute to Respondents. EPA's decision shall be incorporated into and become an enforceable part of this Settlement. Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

61. Except as provided in Paragraph 57 (Contesting Future Response Costs) or as agreed by EPA, the invocation of formal dispute resolution procedures under this Section does not extend, postpone, or affect in any way any obligation of Respondents under this Settlement. Except as provided in Paragraph 71, stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Settlement. In the event that Respondents do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XVII (Stipulated Penalties).

XVI. FORCE MAJEURE

62. "Force Majeure" for purposes of this Settlement, is defined as any event arising from causes beyond the control of Respondents, of any entity controlled by Respondents, or of Respondents' contractors that delays or prevents the performance of any obligation under this Settlement despite Respondents' best efforts to fulfill the obligation. The requirement that Respondents exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. "Force

majeure” does not include financial inability to complete the Work, or increased cost of performance or a failure to attain performance standards set forth in the Action Memorandum.

63. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement for which Respondents intend or may intend to assert a claim of force majeure, Respondents shall notify EPA’s OSC orally or, in his or her absence, the alternate EPA OSC, or, in the event both of EPA’s designated representatives are unavailable, the Director of the Office of Site Remediation and Restoration, EPA Region 1, within 24 hours of when Respondents first knew that the event might cause a delay. Within 7 days thereafter, Respondents shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents’ rationale for attributing such delay to a force majeure; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health or welfare, or the environment. Respondents shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Respondents shall be deemed to know of any circumstance of which Respondents, any entity controlled by Respondents, or Respondents’ contractors knew or should have known. Failure to comply with the above requirements regarding an event shall preclude Respondents from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under Paragraph 62 and whether Respondents have exercised their best efforts under Paragraph 62, EPA may, in its unreviewable discretion, excuse in writing Respondents’ failure to submit timely or complete notices under this Paragraph.

64. If EPA agrees that the delay or anticipated delay is attributable to a force majeure, the time for performance of the obligations under this Settlement that are affected by the force majeure will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a force majeure, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure.

65. If Respondents elect to invoke the dispute resolution procedures set forth in Section XV (Dispute Resolution), they shall do so no later than 15 days after receipt of EPA’s notice. In any such proceeding, Respondents shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of Paragraphs 62 and 63. If Respondents carry this burden, the delay at issue shall be deemed not to be a violation by Respondents of the affected obligation of this Settlement identified to EPA.

66. The failure by EPA to timely complete any obligation under the Settlement is not a violation of the Settlement, provided, however, that if such failure prevents Respondents from meeting one or more deadlines under the Settlement, Respondents may seek relief under this Section.

XVII. STIPULATED PENALTIES

67. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 68.a and 69 for failure to comply with the obligations specified in Paragraphs 68.b and 69, unless excused under Section XVI (Force Majeure). "Comply" as used in the previous sentence includes compliance by Respondents with all applicable requirements of this Settlement, within the deadlines established under this Settlement.

68. Stipulated Penalty Amounts - Payments, Major Deliverables, and Other Milestones

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Paragraph 68.b:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$250	1st through 14th day
\$500	15th through 30th day
\$1000	31st day and beyond

b. Obligations

(1) Payment of any amount due under Section XIV (Payment of Response Costs).

(2) Establishment of an escrow account to hold any disputed Future Response Costs under Paragraph 57 (Contesting Future Response Costs).

(3) Submission of the Removal Work Plan and Final Report.

(4) Establishment and maintenance of financial assurance in accordance with Section XXV (Financial Assurance).

69. **Stipulated Penalty Amounts – Other Deliverables.** The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate deliverables pursuant to this Settlement, other than those specified in Paragraph 68.b:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$125	1st through 14th day
\$250	15th through 30th day
\$500	31st day and beyond

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70. In the event that EPA assumes performance of all or any portion(s) of the Work pursuant to Paragraph 81 (Work Takeover), Respondents shall be liable for a stipulated penalty in the amount of \$25,000. Stipulated penalties under this Paragraph are in addition to the remedies available to EPA under Paragraphs 81 (Work Takeover) and 106 (Access to Financial Assurance).

71. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. Penalties shall continue to accrue during any dispute resolution period, and shall be paid within 15 days after the agreement or the receipt of EPA's decision or order. However, stipulated penalties shall not accrue: (a) with respect to a deficient submission under Paragraph 33 (Work Plan and Implementation), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and (b) with respect to a decision by the EPA Management Official at the Division Director level or higher, under Paragraph 60 (Formal Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA Management Official issues a final decision regarding such dispute. Nothing in this Settlement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement.

72. Following EPA's determination that Respondents have failed to comply with a requirement of this Settlement, EPA may give Respondents written notification of the failure and describe the noncompliance. EPA may send Respondents a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

73. All penalties accruing under this Section shall be due and payable to EPA within 30 days after Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the Dispute Resolution procedures under Section XV (Dispute Resolution) within the 30-day period. All payments to EPA under this Section shall indicate that the payment is for stipulated penalties and shall be made in accordance with Paragraph 55 (Payments for Future Response Costs).

74. If Respondents fail to pay stipulated penalties when due, Respondents shall pay Interest on the unpaid stipulated penalties as follows: (a) if Respondents have timely invoked dispute resolution such that the obligation to pay stipulated penalties has been stayed pending the outcome of dispute resolution, Interest shall accrue from the date stipulated penalties are due pursuant to Paragraph 71 until the date of payment; and (b) if Respondents fail to timely invoke dispute resolution, Interest shall accrue from the date of demand under Paragraph 73 until the date of payment. If Respondents fail to pay stipulated penalties and Interest when due, the United States may institute proceedings to collect the penalties and Interest.

75. The payment of penalties and Interest, if any, shall not alter in any way Respondents' obligation to complete the performance of the Work required under this Settlement.

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76. Nothing in this Settlement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Settlement or of the statutes and regulations upon which it is based; including, but not limited to, penalties pursuant to Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), provided however, that EPA shall not seek civil penalties pursuant to Section 106(b) or Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Settlement, except in the case of a willful violation of this Settlement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 81 (Work Takeover).

77. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement.

XVIII. COVENANTS BY EPA

78. Except as provided in Section XIX (Reservations of Rights by EPA), EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and Future Response Costs. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the complete and satisfactory performance by Respondents of their obligations under this Settlement. These covenants extend only to Respondents and do not extend to any other person.

XIX. RESERVATIONS OF RIGHTS BY EPA

79. Except as specifically provided in this Settlement, nothing in this Settlement shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing in this Settlement shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

80. The covenants set forth in Section XVIII (Covenants by EPA) do not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

a. liability for failure by Respondents to meet a requirement of this Settlement;

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- Costs;
- b. liability for costs not included within the definition of Future Response Costs;
 - c. liability for performance of response action other than the Work;
 - d. criminal liability;
 - e. liability for violations of federal or state law that occur during or after implementation of the Work;
 - f. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
 - g. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
 - h. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site not paid as Future Response Costs under this Settlement.

81. Work Takeover

a. In the event EPA determines that Respondents: (1) have ceased implementation of any portion of the Work; (2) is seriously or repeatedly deficient or late in performance of the Work; or (3) are implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may issue a written notice ("Work Takeover Notice") to Respondents. Any Work Takeover Notice issued by EPA (which writing may be electronic) will specify the grounds upon which such notice was issued and will provide Respondents a period of 3 days within which to remedy the circumstances giving rise to EPA's issuance of such notice.

b. If, after expiration of the 3-day notice period specified in Paragraph 81.a, Respondents have not remedied to EPA's satisfaction the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, EPA may at any time thereafter assume the performance of all or any portion(s) of the Work as EPA deems necessary ("Work Takeover"). EPA will notify Respondents in writing (which writing may be electronic) if EPA determines that implementation of a Work Takeover is warranted under this Paragraph 81.b. Funding of Work Takeover costs is addressed under Paragraph 106 (Access to Financial Assurance).

c. Respondents may invoke the procedures set forth in Paragraph 60 (Formal Dispute Resolution) to dispute EPA's implementation of a Work Takeover under Paragraph 81.b. However, notwithstanding Respondents' invocation of such dispute resolution procedures, and during the pendency of any such dispute, EPA may in its sole discretion commence and continue a Work Takeover under Paragraph 81.b until the earlier of (1) the date that Respondents remedy, to EPA's satisfaction, the circumstances giving rise to EPA's issuance of the relevant Work

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Takeover Notice, or (2) the date that a written decision terminating such Work Takeover is rendered in accordance with Paragraph 60 (Formal Dispute Resolution).

d. Notwithstanding any other provision of this Settlement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XX. COVENANTS BY RESPONDENTS

82. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Response Costs, and this Settlement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund through Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claims under Sections 107 and 113 of CERCLA, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law regarding the Work, Future Response Costs, and this Settlement;

c. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law.

83. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to any of the reservations set forth in Section XIX (Reservations of Rights by EPA), other than in Paragraph 80.a (liability for failure to meet a requirement of the Settlement), 80.d (criminal liability), or 80.e (violations of federal/state law during or after implementation of the Work), but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

84. Nothing in this Settlement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

85. Respondents reserve, and this Settlement is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, and brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States, as that term is defined in 28 U.S.C. § 2671, while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, the foregoing shall not include any claim based on

EPA's selection of response actions, or the oversight or approval of Respondents' deliverables or activities.

XXI. OTHER CLAIMS

86. By issuance of this Settlement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement.

87. Except as expressly provided in Section XVIII (Covenants by EPA), nothing in this Settlement constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Settlement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages, and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

88. No action or decision by EPA pursuant to this Settlement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXII. EFFECT OF SETTLEMENT/CONTRIBUTION

89. Nothing in this Settlement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement. Except as provided in Section XX (Covenants by Respondents), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

90. The Parties agree that this Settlement constitutes an administrative settlement pursuant to which Respondents have, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Settlement. The "matters addressed" in this Settlement are the Work and Future Response Costs.

91. The Parties further agree that this Settlement constitutes an administrative settlement pursuant to which Respondents have, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

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92. Respondents shall, with respect to any suit or claim brought by them for matters related to this Settlement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Respondents also shall, with respect to any suit or claim brought against them for matters related to this Settlement, notify EPA in writing within 10 days after service of the complaint or claim upon them. In addition, Respondents shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement.

93. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the Site, Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenant by EPA set forth in Section XVIII (Covenants by EPA).

XXIII. INDEMNIFICATION

94. The United States does not assume any liability by entering into this Settlement or by virtue of any designation of Respondents as EPA's authorized representatives under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and 40 C.F.R. 300.400(d)(3). Respondents shall indemnify, save, and hold harmless the United States, its officials, agents, employees, contractors, subcontractors, and representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, and any persons acting on Respondents' behalf or under their control, in carrying out activities pursuant to this Settlement. Further, Respondents agree to pay the United States all costs it incurs, including but not limited to attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on Respondents' behalf or under Respondents' control, in carrying out activities pursuant to this Settlement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities pursuant to this Settlement. Neither Respondents nor any such contractor shall be considered an agent of the United States.

95. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

96. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition,

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Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

XXIV. INSURANCE

97. No later than 14 days before commencing any on-site Work, Respondents or their Contractor(s) shall secure, and shall maintain until the first anniversary after issuance of Notice of Completion of Work pursuant to Section 111 (Notice of Completion of Work), commercial general liability insurance with limits of liability of \$1 million per occurrence, automobile liability insurance with limits of liability of \$1 million per accident, and umbrella liability insurance with limits of liability of \$5 million in excess of the required commercial general liability and automobile liability limits, naming EPA as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Respondents pursuant to this Settlement. In addition, for the duration of the Settlement, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondents shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Settlement. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in a lesser amount, Respondents need provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor. Respondents shall ensure that all submittals to EPA under this Paragraph identify the BJAT, LLC Superfund Site, Franklin, Massachusetts and the EPA docket number for this action.

XXV. FINANCIAL ASSURANCE

98. Within 120 days of the Effective Date, in order to ensure completion of the Work, Respondents shall secure financial assurance, initially in the amount of \$2.4 million ("Estimated Cost of the Work"), for the benefit of EPA. The financial assurance must be one or more of the mechanisms listed below, in a form substantially identical to the relevant sample documents available from EPA or under the "Financial Assurance - Settlements" category on the Cleanup Enforcement Model Language and Sample Documents Database at <https://cfpub.epa.gov/compliance/models/>, and satisfactory to EPA. Respondents may use multiple mechanisms if they are limited to surety bonds guaranteeing payment, letters of credit, trust funds, and/or insurance policies.

- a. A surety bond guaranteeing payment and/or performance of the Work that is issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;

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- b. An irrevocable letter of credit, payable to or at the direction of EPA, that is issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;
- c. A trust fund established for the benefit of EPA that is administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;
- d. A policy of insurance that provides EPA with acceptable rights as a beneficiary thereof and that is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction(s) and whose insurance operations are regulated and examined by a federal or state agency;
- e. A demonstration by Respondents that meets the financial test criteria of Paragraph 94, accompanied by a standby funding commitment, which obligates the Respondents to pay funds to or at the direction of EPA, up to the amount financially assured through the use of this demonstration in the event of a Work Takeover; or
- f. A guarantee to fund or perform the Work executed in favor of EPA by a company: (1) that is a direct or indirect parent company of Respondents or has a "substantial business relationship" (as defined in 40 C.F.R. § 264.141(h)) with Respondents; and (2) can demonstrate to EPA's satisfaction that it meets the financial test criteria of Paragraph 97.

99. Within 150 days after the Effective Date, Respondents shall secure all executed and/or otherwise finalized mechanisms or other documents consistent with the EPA-approved form of financial assurance and shall submit such mechanisms and documents to the Regional Financial Management Officer and to the OSC.

100. Respondents seeking to provide financial assurance by means of a demonstration or guarantee under Paragraph 98.e or 98.f must, within 30 days of the Effective Date:

- a. Demonstrate that:
 - (1) the affected Respondent or guarantor has:
 - i. Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
 - ii. Net working capital and tangible net worth each at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal-environmental obligations financially assured through the use of a financial test or guarantee; and

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iii. Tangible net worth of at least \$10 million; and

iv. Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; or

(2) The affected Respondent or guarantor has:

i. A current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and

ii. Tangible net worth at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

iii. Tangible net worth of at least \$10 million; and

iv. Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

b. Submit to EPA for the affected Respondent or guarantor: (1) a copy of an independent certified public accountant's report of the entity's financial statements for the latest completed fiscal year, which must not express an adverse opinion or disclaimer of opinion; and (2) a letter from its chief financial officer and a report from an independent certified public accountant substantially identical to the sample letter and reports available from EPA or under the "Financial Assurance - Settlements" subject list category on the Cleanup Enforcement Model Language and Sample Documents Database at <https://cfpub.epa.gov/compliance/models/>.

101. Respondents providing financial assurance by means of a demonstration or guarantee under Paragraph 98.e or 98.f must also:

102. Annually resubmit the documents described in Paragraph 100.b within 90 days after the close of the affected Respondent's or guarantor's fiscal year;

103. Notify EPA within 30 days after the affected Respondent or guarantor determines that it no longer satisfies the relevant financial test criteria and requirements set forth in this Section; and

104. Provide to EPA, within 30 days of EPA's request, reports of the financial condition of the affected Respondent or guarantor in addition to those specified in Paragraph

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100.b; EPA may make such a request at any time based on a belief that the affected Respondent or guarantor may no longer meet the financial test requirements of this Section.

105. Respondents shall diligently monitor the adequacy of the financial assurance. If Respondents become aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, Respondents shall notify EPA of such information within 7 days. If EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, EPA will notify the affected Respondent of such determination. Respondents shall, within 30 days after notifying EPA or receiving notice from EPA under this Paragraph, secure and submit to EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. EPA may extend this deadline for such time as is reasonably necessary for the affected Respondent, in the exercise of due diligence, to secure and submit to EPA a proposal for a revised or alternative financial assurance mechanism, not to exceed 30 days. Respondents shall follow the procedures of Paragraph 107 (Modification of Amount, Form, or Terms of Financial Assurance) in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Respondents' inability to secure financial assurance in accordance with this Section does not excuse performance of any other obligation under this Settlement.

106. Access to Financial Assurance

a. If EPA issues a notice of implementation of a Work Takeover under Paragraph 81, then, in accordance with any applicable financial assurance mechanism and/or related standby funding commitment, EPA is entitled to: (1) the performance of the Work; and/or (2) require that any funds guaranteed be paid in accordance with Paragraph 106.d.

b. If EPA is notified by the issuer of a financial assurance mechanism that it intends to cancel the mechanism, and the affected Respondent fails to provide an alternative financial assurance mechanism in accordance with this Section at least 30 days prior to the cancellation date, the funds guaranteed under such mechanism must be paid prior to cancellation in accordance with Paragraph 106.d.

c. If, upon issuance of a notice of implementation of a Work Takeover under Paragraph 81, either: (1) EPA is unable for any reason to promptly secure the resources guaranteed under any applicable financial assurance mechanism and/or related standby funding commitment, whether in cash or in kind, to continue and complete the Work; or (2) the financial assurance is a demonstration or guarantee under Paragraph 98.e or 98.f, then EPA is entitled to demand an amount, as determined by EPA, sufficient to cover the cost of the remaining Work to be performed. Respondents shall, within 7 days of such demand, pay the amount demanded as directed by EPA.

d. Any amounts required to be paid under this Paragraph 106 shall be, as directed by EPA: (i) paid to EPA in order to facilitate the completion of the Work by EPA or by another person; or (ii) deposited into an interest-bearing account, established at a duly chartered bank or trust company that is insured by the FDIC, in order to facilitate the completion of the

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Work by another person. If payment is made to EPA, EPA may deposit the payment into the EPA Hazardous Substance Superfund or into the BJAT, LLC Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

e. All EPA Work Takeover costs not paid under this Paragraph 106 must be reimbursed as Future Response Costs under Section XIV (Payments for Response Costs).

107. **Modification of Amount, Form, or Terms of Financial Assurance.** Respondents may submit, on any anniversary of the Effective Date or at any other time agreed to by the Parties, a request to reduce the amount, or change the form or terms, of the financial assurance mechanism. Any such request must be submitted to EPA, and must include an estimate of the cost of the remaining Work, an explanation of the bases for the cost calculation, and a description of the proposed changes, if any, to the form or terms of the financial assurance. EPA will notify Respondents of its decision to approve or disapprove a requested reduction or change pursuant to this Paragraph. Respondents may reduce the amount of the financial assurance mechanism only in accordance with: (a) EPA's approval; or (b) if there is a dispute, the agreement or written decision resolving such dispute under Section XV (Dispute Resolution). Respondents may change the form or terms of the financial assurance mechanism only in accordance with EPA's approval. Any decision made by EPA on a request submitted under this Paragraph to change the form or terms of a financial assurance mechanism shall not be subject to challenge by Respondents pursuant to the dispute resolution provisions of this Settlement or in any other forum. Within 30 days after receipt of EPA's approval of, or the agreement or decision resolving a dispute relating to, the requested modifications pursuant to this Paragraph, Respondents shall submit to EPA documentation of the reduced, revised, or alternative financial assurance mechanism.

108. **Release, Cancellation, or Discontinuation of Financial Assurance.** Respondents may release, cancel, or discontinue any financial assurance provided under this Section only: (a) if EPA issues a Notice of Completion of Work under Section XXVII (Notice of Completion of Work); (b) in accordance with EPA's approval of such release, cancellation, or discontinuation; or (c) if there is a dispute regarding the release, cancellation, or discontinuance of any financial assurance, in accordance with the agreement or final decision resolving such dispute under Section XV (Dispute Resolution).

XXVI. MODIFICATION

109. The OSC may modify any plan or schedule or SOW in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of the OSC's oral direction. Any other requirements of this Settlement may be modified in writing by mutual agreement of the parties.

110. If Respondents seek permission to deviate from any approved work plan or schedule or SOW, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondents may not proceed with

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the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 109.

111. No informal advice, guidance, suggestion, or comment by the OSC or other EPA representatives regarding any deliverable submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Settlement, or to comply with all requirements of this Settlement, unless it is formally modified.

XXVII. NOTICE OF COMPLETION OF WORK

112. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with this Settlement, with the exception of any continuing obligations required by this Settlement, EPA will provide written notice to Respondents. If EPA determines that such Work has not been completed in accordance with this Settlement, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the Removal Work Plan if appropriate in order to correct such deficiencies. Respondents shall implement the modified and approved Removal Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondents to implement the approved modified Removal Work Plan shall be a violation of this Settlement.

XXVIII. INTEGRATION/APPENDICES

This Settlement and its appendices constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement. The parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement. The following appendices are attached to and incorporated into this Settlement:

- Appendix A: Action Memorandum
- Appendix B: Site Map
- Appendix C: Statement of Work


XXIX. EFFECTIVE DATE

113. This Settlement shall be effective 5 days after the Settlement is signed by the Regional Administrator or his/her delegatee.

IT IS SO AGREED AND ORDERED:

U.S. ENVIRONMENTAL PROTECTION AGENCY:

12/11/17
Dated



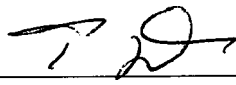
Bryan Olson
Director, Office of Site Remediation and Restoration
U.S. Environmental Protection Agency, Region I

BJAT, LLC Superfund Site AOC for Removal Action

Signature Page for Settlement Regarding BJAT, LLC Superfund Site

For BJAT, LLC:

11-24-17
Dated




Name: Ted Davis
Title: Manager
Company: BJAT, LLC
Address: P.O. Box 1020
Westboro, MA 01581

BJAT, LLC Superfund Site AOC for Removal Action

Signature Page for Settlement Regarding BJAT, LLC Superfund Site

For Hasco Associates, LP:

11/23/17
Dated

Name: 
Title:
Company:
Address:



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE - SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CONTAINS ENFORCEMENT SENSITIVE INFORMATION

MEMORANDUM

DATE: 2 August 2017

SUBJ: Request for a Removal Action at the BJAT, LLC Site,
300 Fisher Street, Franklin, Norfolk County, Massachusetts 02038.
Action Memorandum

FROM: Richard A. Haworth, On-Scene Coordinator
Emergency Response and Removal Section II

THRU: William Lovely, Chief
Emergency Response and Removal Section II

Carol Tucker, Chief
Emergency Planning & Response Branch

TO: Bryan Olson, Director
Office of Site Remediation and Restoration

I. PURPOSE

The purpose of this Action Memorandum is to request and document approval of the proposed time-critical removal action at the BJAT, LLC Site (the Site), located at 300 Fisher Street in the Town of Franklin, Norfolk County, Massachusetts. Hazardous substances present in drum waste and soil at the Site, if not addressed by implementing the response actions selected in this Action Memorandum, will continue to pose a threat to human health and the environment. There are no nationally significant or precedent-setting issues associated with this Site, and the OSC's warrant authority has not been used.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID#: MAN000106144
SITE ID#: 01MC
CATEGORY: Time-Critical

A. Site Description

1. Removal Site evaluation

EPA's Removal Program performed a Preliminary Assessment/Site Investigation that began by reviewing existing information. Based on this information, a sample grid was established, and soil samples were collected at 69 locations. Samples were also collected of exposed waste at 4 locations, and solid waste in 2 drums. A surface soil sample (0-3 inches) was collected at each grid point, and about half were selected for sample collection at 1.5 and 3 feet, although not all reached these depths due to refusal. Based on existing data, analysis of soil was limited to metals, except for a fraction that were also analyzed for asbestos and hexavalent chromium to fill this data gap. Drums and waste were tested for a full range of analytes, including the Toxicity Characteristic Leaching Procedure (TCLP).

The results of testing performed at EPA's New England Regional Laboratory (NERL) on surface soil samples identifies the presence of the hazardous substance lead in 14 surface samples and 9 subsurface samples at a concentration that exceeds EPA's Removal Management Level (RML) that corresponds to either a 10^{-4} risk level for carcinogens or a Hazard Quotient (HQ) of 3 for non-carcinogens in industrial settings.

NERL data also shows that several hazardous substances are present in all drum and waste samples. Waste in one drum sample indicates the contents is a hazardous waste, as a Toxicity Characteristic Leaching Procedure (TCLP) test yielded a concentration of 3.2 ppm for cadmium, which exceeds the regulatory limit of 1.0 ppm. Lead is present in two of the four waste samples at concentrations of 5,370 ppm and 7,270 ppm, each of which exceed the RML of 800 ppm. While RMLs are designed for comparison to soil, the comparison to drums and waste at this Site is useful because accessibility is the same as soil.

Exposed drums, waste, and contaminated soil at the site can be accessed by walking around the end of a fence line that stops in the woods in the northeast corner. In addition, the fence has been repeatedly breached at various locations.

A Closure Memorandum formally documents the conclusion of the removal evaluation, and recommends that a Removal Action is appropriate because conditions at this Site meet the criteria in the National Contingency Plan (NCP) for initiating a removal action.

2. Physical location

The Site is located at 300 Fisher Street in the southeastern portion of Franklin, Massachusetts, and is identified in a deed recorded by the Norfolk County Registry of Deeds Book 23626, Page 546. The geographic coordinates are approximately 42° 4' 28" north latitude, 71°24' 38" west longitude. The Site is bounded by railroad tracks to the south, and wetlands/forest on all other sides.

3. Site characteristics

The Site is located on an 18.3-acre parcel that is largely wooded and/or wetland, however the source of contamination appears to be disposal areas close to former Site buildings, the last of which was recently demolished by the Site owner in 2016. A key activity at the Site is believed to have involved vulcanization of raw rubber, which is a chemical process that uses lead and zinc oxides to give the rubber desirable properties.

The Site is generally level, but slopes steeply down to a wetland to the north and west of a concrete slab where site buildings were formerly located. According to reports documenting previous investigations, a state-listed endangered bird species inhabits the wetland, the Least Bittern. Beyond the railroad track to the south of the Site and up a steep slope is a residential neighborhood. The population within ½ mile is 916 people during the day, and 687 at night.

EPA's environmental justice screening tool (EJSCREEN) reveals that none of the eleven Environmental Justice Indexes for the area within a one-mile radius of the Site exceed the 50th percentile on a national basis.

The operational status is inactive. The incident category is manufacturing plant. The owner-operator type is private.

4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

The analytical results of tests performed on samples collected at this Site document that several hazardous substances are present in drums, waste, and soil, including but not limited to, those listed below. Each is identified as a hazardous substance in 40 CFR 302.4. Therefore, a release into the environment of hazardous substances has already occurred, and a further release of hazardous substances is threatened. A comparison of the concentrations to relevant published standards is provided later in this document.

Hazardous Substance	Maximum Concentration (ppm)		
	Drums	Waste	Soil
Arsenic	ND	67.4	260
Cadmium	386	83	55
Lead	31.2	7,270	67,000
Zinc	N/A	N/A	39,000

5. NPL status

The Site was listed on the National Priorities List in September 2015.

B. Other Actions to Date

1. Previous actions

December	2005	by site owner	Phase I Environmental Site Assessment (ESA)
September	2006	by site owner	Limited Subsurface Investigation (LSI)
December	2007	by site owner	Second LSI
Spring	2008	by site owner	Phase I Initial Site Investigation sampling
May	2010	by site owner	Phase II samples exceed Imminent Hazard standard
Summer	2010	by site owner	Immediate Response Action (IRA) (fence & signs)
August	2012	by site owner	Phase II Comprehensive Site Assessment (report issued)
July	2014	by EPA	Remedial Site Inspection
September	2015	by EPA	Placed on the National Priorities List
December	2015	by EPA	Emergency response to building fire
Autumn	2016	by site owner	Demolished site buildings

2. Current actions

At present the Remedial Program is preparing a Quality Assurance Project Plan, and performing wetland reconnaissance to prepare for habitat characterization and wetland delineation.

C. State and Local Authorities' Roles

1. State and local actions to date

The property owner has performed several investigations over many years pursuant to state regulation, as outlined in II B 1, above.

2. Potential for continued State/local response

The State of Massachusetts petitioned to have this Site listed on the National Priorities List. EPA is the lead agency, and does not anticipate that the state will participate directly in the proposed Removal Action.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

Based on Site conditions and information available on the hazardous substances present, the Site poses the threats to public health and the environment outlined below. To limit the size of this document, detailed information is provided below for only a few of the hazardous substances present at the Site. Potential health effects identified below are found in the federal Agency for Toxic Substances and Disease Registry's (ATSDR's) Toxicological Profiles or ToxGuides™.

The effects of exposure to any hazardous substance depend on the dose, the duration, how you are exposed, personal traits and habits, and whether other chemicals are present.

Arsenic

Arsenic cannot be destroyed in the environment. It can only change its form or become attached to, or separated from, particles. Skin contact with inorganic arsenic may cause redness and swelling. Exposure to lower levels for a long time can cause a discoloration of the skin and the appearance of small corns or warts. EPA and the Department of Health and Human Services (DHHS) have determined that inorganic arsenic is a human carcinogen. The International Agency for Research on Cancer (IARC) has determined that inorganic arsenic is carcinogenic to humans.

Cadmium

Cadmium binds strongly to soil particles, and does not break down in the environment. Some forms of cadmium dissolve in water. Fish, plants, and animals take up cadmium from the environment. EPA has determined that cadmium is a probable human carcinogen. DHHS and IARC have determined that cadmium and cadmium compounds are human carcinogens.

Lead

The main target for lead toxicity is the nervous system. Children are more vulnerable to the effects of lead than adults. DHHS has determined that lead and lead compounds are reasonably anticipated to be human carcinogens, and EPA has determined that lead is a probable human carcinogen. IARC has determined that inorganic lead is probably carcinogenic to humans.

Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants, [§300.415(b)(2)(i)].

Lab analysis reveals the presence of several hazardous substances, including but not limited to those listed above in Section II A 4. The Site is located near a residential neighborhood, and the population within 1/2 mile is 916 people during the day. Access to contaminated areas is available by walking around the end of the fence at the northeast corner of the site, or through openings created/recreated by vandalism. Exposure could occur by direct contact, as hazardous substances are at or near the surface in soil and drums.

Holes cut through site fence, and graffiti on former site buildings, indicate people have repeatedly accessed the Site. The owner of the Site installed a security camera to address trespassing that was undeterred by the fence, however, the security camera may be removed now that Site buildings have been demolished. It is unknown whether the building demolition will decrease trespassing. The large concrete slab (former foundation) may invite graffiti or skate boarding. Users of off-road vehicles may be attracted to the sloped soil embankments installed as part of the building demolition.

Holes cut through site fence, and graffiti on former site buildings, indicate people access the Site. The owner of the Site installed a security camera to address trespassing that was undeterred by fence, however, it may be removed now that Site buildings have been demolished. It remains to be seen if removing buildings decreases trespassing. The large concrete slab (former foundation) may

invite graffiti or skate boarding. Users of off-road vehicles may be attracted to the sloped soil embankments installed as part of the building demolition.

Reports documenting prior investigations identify that the state-listed endangered species of bird, the Eastern Bittern, inhabits the woodland/ wetland adjacent to contaminated areas. Several species of animal common to New England likely also inhabit the area, such as deer, squirrel, rabbit, and chipmunk.

Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers; that may pose a threat of release [§300.415(b)(2)(iii)]

This Site is an abandoned property. Many drums are present on a wooded slope that descends from former Site buildings to a wetland. Most drums are partially buried, and protrude from the slope, and therefore cannot be inspected. However, two drums with contents that are accessible were sampled. Lab tests document that hazardous substances are present, including but not limited to cadmium and lead. Concentrations are identified in the table below. The drums that were sampled are open or degraded such that the contents are open to the weather or direct contact, and therefore pose a threat of release. It is reasonable to anticipate that other drums on the slope also contain hazardous substances, are in similarly poor condition, and likewise pose a threat of release.

High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate. [§300.415(b)(2)(iv)]

Lab tests performed on soil samples collected from the surface to three feet below ground surface, show that several hazardous substances are present. At 23 sample grid locations, the concentration of lead exceeds EPA's Removal Management Level (RML) that corresponds to either a 10^{-4} risk level for carcinogens or a Hazard Quotient (HQ) of 3 for non-carcinogens in industrial locations. Similarly, the Massachusetts Contingency Plan (MCP) S2 standard, also applicable to non-residential/public settings, is exceeded at many locations for several hazardous substances, including antimony, arsenic, barium, cadmium, lead, and zinc. In addition, lab results show that one drum contains characteristic hazardous waste because cadmium in the leachate exceeds the federal regulatory limit of 1.0 ppm.

Below is a table comparing the hazardous substances at the Site to relevant standards. Note that although RMLs and the S2 thresholds are established for soil, it is reasonable to compare these standards to waste and drum contents at this Site because these materials are at the surface and subject to contact and migration in much the same way as contaminated soil.

The last column is the National Recommended Water Quality Aquatic Life Criteria for toxic chemicals. These are the highest concentrations in water that are not expected to pose a significant risk to the majority of species in a given environment or a narrative description of the desired conditions of a water body being "free from" certain negative conditions.

Hazardous Substance (all values in parts per million)	Matrix	Maximum Concentration	EPARML HQ=3 (industrial)	DEP S2 (industrial)	EPA National Freshwater Criterion Maximum Concentration** (CMC)(acute)
Arsenic	Drum	ND	300	20	N/A
	Waste	67.4			
	Soil	260	N/A	N/A	0.34
	Water***	0.18			
Cadmium	Drum	386	2,900	100	N/A
	Waste	83			
	Soil	55	N/A	N/A	0.0018
	Water***	0.073			
Lead	Drum	31.2	800	600	N/A
	Waste	7270			
	Soil	67,000	N/A	N/A	0.065
	Water***	1.93			
Zinc	Drum	Not Analyzed	1,100,000	3,000	N/A
	Waste	Not Analyzed			
	Soil	39,000	N/A	N/A	0.12
	Water***	29			

* <https://www.epa.gov/risk/regional-removal-management-levels-chemicals-rmls>
 ** <https://www.epa.gov/wqc/national-recommended-water-quality-criteria-aquatic-life-criteria-table>
 *** data generated prior to Removal PA/SI.

As identified in the table above, prior investigations by EPA and others document that the same hazardous substances found on the Site are present in the adjacent wetland sediment and surface water, indicating contaminant migration has already occurred.

Drums, waste, and contaminated soil are adjacent to a wetland. Precipitation may cause hazardous substances to migrate via direct physical transport or by chemical processes. Water used to fight a brush fire that might occur could also contribute to the spread of hazardous substances.

Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released [§300.415(b)(2)(v)]:

Drums, waste, and contaminated soil are located outdoors and so are subjected to the effects of weather. Lab testing reveals that the hazardous substance cadmium leaches out of the material in a drum that was sampled, and lead leaches out of waste that was sampled at concentrations exceeding federal regulatory limits. The hazardous substances found on Site have also been found in the adjacent wetland. It is reasonable to assume that precipitation causes hazardous substances to migrate or be released.

The availability of other appropriate Federal or State response mechanisms to respond to the release [§300.415(b)(2)(vii)]:

Lacking resources to adequately address this Site, the State of Massachusetts supported the inclusion of this Site on the NPL. Funds are not available to EPA's Remedial Program to apply to the proposed Removal Action.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances or pollutants or contaminants from this Site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, welfare, or the environment.

In accordance with OSWER Directive 9360.0-34 (August 19, 1993), an endangerment determination is made based on "appropriate Superfund policy or guidance, or in collaboration with a trained risk assessor. Appropriate sources include, but are not limited to, relevant action level or clean-up standards, Agency for Toxic Substances and Disease Registry documents or personnel, or staff toxicologists." EPA has relied on comparison of concentrations of hazardous substances at the site to EPA's Removal Management Levels and the Massachusetts Contingency Plan (310 Code of Massachusetts Regulations 40.0000) S2 standards identified above in Section III.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

The OSC will perform an initial Site visit with a representative of EPA's Emergency and Rapid Response Services (ERRS) contractor to review the scope, objectives, and approach to the project, health and safety considerations, and arrangements necessary to initiate work at the Site.

A site-specific Health and Safety Plan will be developed in accordance with regulations promulgated by the Occupational Safety and Health Administration, and all actions at the Site will be performed in accordance with the Plan.

An office trailer, storage units, and sanitary facilities will be brought to the Site. Silt fence, hay bales, or other similar measures will be installed to limit or avoid further impact to the wetland adjacent to contaminated areas. Repairs will be made to the Site fence, and additional warning signs posted. Temporary fence, caution tape, and/or signs will be used to identify work areas.

Heavy equipment and chainsaws will be used to clear and grub trees and undergrowth in and around contaminated areas, and if necessary, to establish a staging area for excavated materials. The concrete slab where buildings had been located, and the adjacent cleared areas resulting from building demolition will likely be used for a command post/clean zone, as well

as to stage excavated materials. Crushed stone or other suitable material may be used to stabilize existing conditions to allow access to work areas. A security guard will be posted if circumstances arise that warrant this measure.

Drums and other containers, waste, and contaminated soil will be excavated, sampled, staged, and covered while arrangements for disposal are completed. If a deposit of waste is significant and segregable, it will be sampled to determine if it should be disposed of as a stand-alone waste stream. Empty drums and other containers, and other solid waste commingled with contaminated soil and waste will be disposed of as contaminated waste, or decontaminated if practical/cost effective. Excavated soil may be treated on site prior to disposal. The cost of labor and equipment to treat excavated soil on site prior to shipping will need to be compared to the cost of shipping directly without treatment.

The estimated amount of soil to be addressed by this action is 2,114 tons, and is limited to the contaminated area identified by the removal site evaluation to the northwest of the recently demolished building. Excavation will generally be limited to 3 feet or groundwater, but may extend further, for example, to completely remove what appears to be a localized deposit of drums, waste, or contaminated soil. If needed to supplement existing soil moisture, the excavation area will be sprayed with water for the purpose of limiting or preventing dust.

High-visibility fence will be placed at the limits of excavated areas as a marker for future reference, then the excavated areas will be filled with clean soil and/or stone from off site. Grass and/or other vegetation may be planted and/or stone employed to limit erosion.

In collaboration with the Remedial Project Manager (RPM), a limited number of test pits may be dug to provide information about subsurface conditions at depths greater than three feet.

Air monitoring will be conducted with direct-reading instruments in and near work areas. It is expected that concentrations of airborne contaminants will not be detected above background at the Site fence along the rail road track. However, if this is not the case, operations will be altered to reduce concentrations and/or monitoring will be extended into the residential neighborhood.

Samples will be collected of waste, soil, water, air or other matrices to comply with the requirements of the Site's health and safety plan, characterize waste, further characterize Site conditions, document the effectiveness of the cleanup/final conditions, assure the quality of backfill obtained from off-site vendors, or for other reasons.

Waste, excavated soil, and other contaminated items as may be encountered, or that is related to or generated during the performance of this proposed action, will be shipped off site for disposal, treatment, re-use, or recycling. Off-site disposal of hazardous waste will be in accordance with the Off-Site Rule, 40 CFR 300.440.

Response-related damage will be repaired should it occur.

If records believed to be related to contamination are found at the Site, they will be viewed, copied, photographed, and/or otherwise documented, and in view of Site conditions, may be removed from the Site for preservation.

Upon completion of this Superfund Removal Action, the Superfund Remedial Program will continue to address any remaining threats to human health or the environment.

2. Community relations

The OSC will coordinate with the assigned Community Involvement Coordinator and RPM to establish how best to maintain good community relations, such as arranging a neighborhood meeting and/or providing written Community Updates. A press release may be issued at the start and/or conclusion of the Removal Action. Pollution Reports will be generated periodically. A Site Administrative Record will be established and made available at a local repository near the Site as well as the Records Center at EPA's Boston Office.

3. Contribution to remedial performance

The RPM has participated in the development of the proposed removal action. The cleanup proposed in this Action Memorandum is designed to mitigate the threats to human health and the environment outlined above. The removal action, to the extent practicable, contributes to the efficient performance of the long-term remedial action, as required by 40 C.F.R. 300.415.

Removing hazardous substances in drums, waste, and soil can be expected to reduce migration of contaminants off-site, or to other areas of the site, and likewise, reduce the possibility for public contact with contaminated drums, waste and soil. Off-site disposal of waste will be consistent with, and not impede a future remedial response action. Because the final remedy will not be known at the time the proposed removal action is implemented, on-site disposal options will not be implemented, as they may be inconsistent with, or impede future remedial actions.

4. Description of alternative technologies and sustainable approaches

The nature of the waste at this Site makes it unlikely that an alternative to landfill disposal can be employed. An exception may be liquid waste that may be discovered in drums. Thermal desorption can be used if contaminated soil meets facility parameters. If this option is viable, treated soil may be suitable to backfill the excavated area. It is unlikely that drum waste could be treated in this manner.

Sustainability efforts will include ensuring that contractors are meeting or exceeding the green remediation requirements of their contract. A no-idling policy will be implemented. Solar generators will be utilized if available in the size required.

5. Applicable or relevant and appropriate requirements (ARARs)

Pursuant to 40 C.F.R. 300.415(j), removal actions shall, to the extent practicable considering the exigencies of the situation, attain ARARs. Attainment is subject to EPA Publication

540/P-91/011, "Superfund Removal Procedures: Guidance on the Consideration of ARARs During Removal Actions." The regulations identified at this time are listed below, and are relevant and appropriate.

Federal ARARs

40 C.F.R. Parts 260-262, 264, and 268 Resource Conservation and Recovery Act, Subtitle C- Hazardous Waste Identification and Listing Regulations; Generator and Handler Requirements; Closure and Post-Closure, and Land Disposal Restrictions - Massachusetts has been delegated the authority to administer these RCRA standards through its state hazardous waste management regulations. Waste generated will be tested to determine whether it exceeds hazardous waste thresholds and, if so, the hazardous waste will be managed on-site and until such time as it is shipped to an EPA-approved off-site disposal location.

40 C.F.R. Part 61 Clean Air Act: standards for controlling dust. The regulations establish emissions standards for 189 hazardous air pollutants. Standards set for dust and release sources. If the removal of contaminated soils generate regulated air pollutants, then measures will be implemented to meet these standards.

State ARARs

310 CMR 40.0900 Procedures and Standards for the Characterization of the Risk of Harm to Health, Safety, Public Welfare and the Environment

310 CMR 30.100: Hazardous Waste Rules for Identification and Listing of Hazardous Wastes

310 CMR 30.300: Hazardous Waste Management Rules - Requirements for Generators

310 CMR 30.500: Hazardous Waste Management Rules - General standards for hazardous waste facilities

310 CMR 30.680: Hazardous Waste Rules - Containers

310 CMR 7.00: this regulation stipulates that during construction and/or demolition activities, air emissions (i.e., dust, particulates, etc.) must be controlled to prevent air pollution. Construction activities will be managed to meet standards for visible emission (310 CMR Section 7.06): dust, odor, construction, and demolition (310 CMR Section 7.09)

310 CMR 10.00: Wetlands Protection Regulations – standards for work within state wetland resource areas

The OSC will coordinate with MassDEP to identify additional State ARARs, if any. In accordance with the NCP and EPA Guidance Documents, the OSC will determine the applicability and practicability of complying with each ARAR that is identified by MassDEP in a timely manner.

6. Project schedule

It is anticipated the proposed action can be completed within six months.

B. Estimated Costs

COST CATEGORY		CEILING
<i>REGIONAL REMOVAL ALLOWANCE COSTS:</i>		
ERRS Contractor		\$1,001,000.00
Interagency Agreement – USACE		\$0.00
<i>OTHER EXTRAMURAL COSTS NOT FUNDED FROM THE REGIONAL ALLOWANCE:</i>		
START Contractor		\$200,000.00
Extramural Subtotal		\$1,201,000.00
Extramural Contingency	20%	\$241,000.00
TOTAL, REMOVAL ACTION CEILING		\$1,442,000.00

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

In the absence of the response action described herein, conditions at the Site will persist. The hazardous substances identified above will remain at the Site, and continue to pose the threats to public health, welfare, or the environment outlined in Section III of this Action Memorandum.

VII. OUTSTANDING POLICY ISSUES

There is no nationally significant or precedent-setting issue associated with this Site that would require a review by EPA Headquarters prior to implementation.

VIII. ENFORCEMENT ... For Internal Distribution Only

See attached Enforcement Strategy.

The total EPA costs for this removal action based on full-time accounting practices that will be eligible for cost recovery are estimated to be \$1,442,000 (extramural costs) + \$200,000 (EPA intramural costs) = \$1,642,000 x 1.4867 (regional indirect rate) = **\$2,441,162¹**.

¹ Direct Costs include direct extramural costs \$1,442,000 and direct intramural costs \$200,000. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific costs, 48.67 % (for fiscal year 2017) of \$1,642,000, consistent with the full accounting methodology effective October 13, 2013. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

IX. RECOMMENDATION

This decision document represents the selected removal action for the BJAT, LLC Site in Franklin, Massachusetts, developed in accordance with CERCLA, as amended, and is not inconsistent with the National Contingency Plan. The basis for this decision will be documented in the administrative record to be established for the Site.

Conditions at the Site meet the NCP Section 300.415 (b) criteria for a removal action based on the following factors:

Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants [§300.415(b)(2)(i)];

Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release [§300.415(b)(2)(iii)];

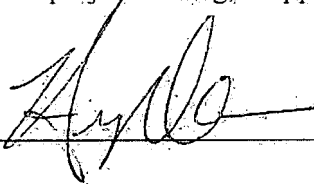
High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate [§300.415(b)(2)(iv)];

Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released [§300.415(b)(2)(v)]; and,

The availability of other appropriate Federal or State response mechanisms to respond to the release [§300.415(b)(2)(vii)].

I recommend that you approve the proposed removal action at the BJAT, LLC Site. The total extramural removal action project ceiling, if approved, will be \$1,468,000.00.

APPROVAL: _____



DATE: _____

8/7/17

DISAPPROVAL: _____

DATE: _____

Inferred area of historic deposition as seen on aerial photos.

Drum, Waste, S2 Soil Excavation Area

Edge of Wetland

Drum Removal Area

Dirt road

Footpath

S2 Soil Area Capped During Building Demo

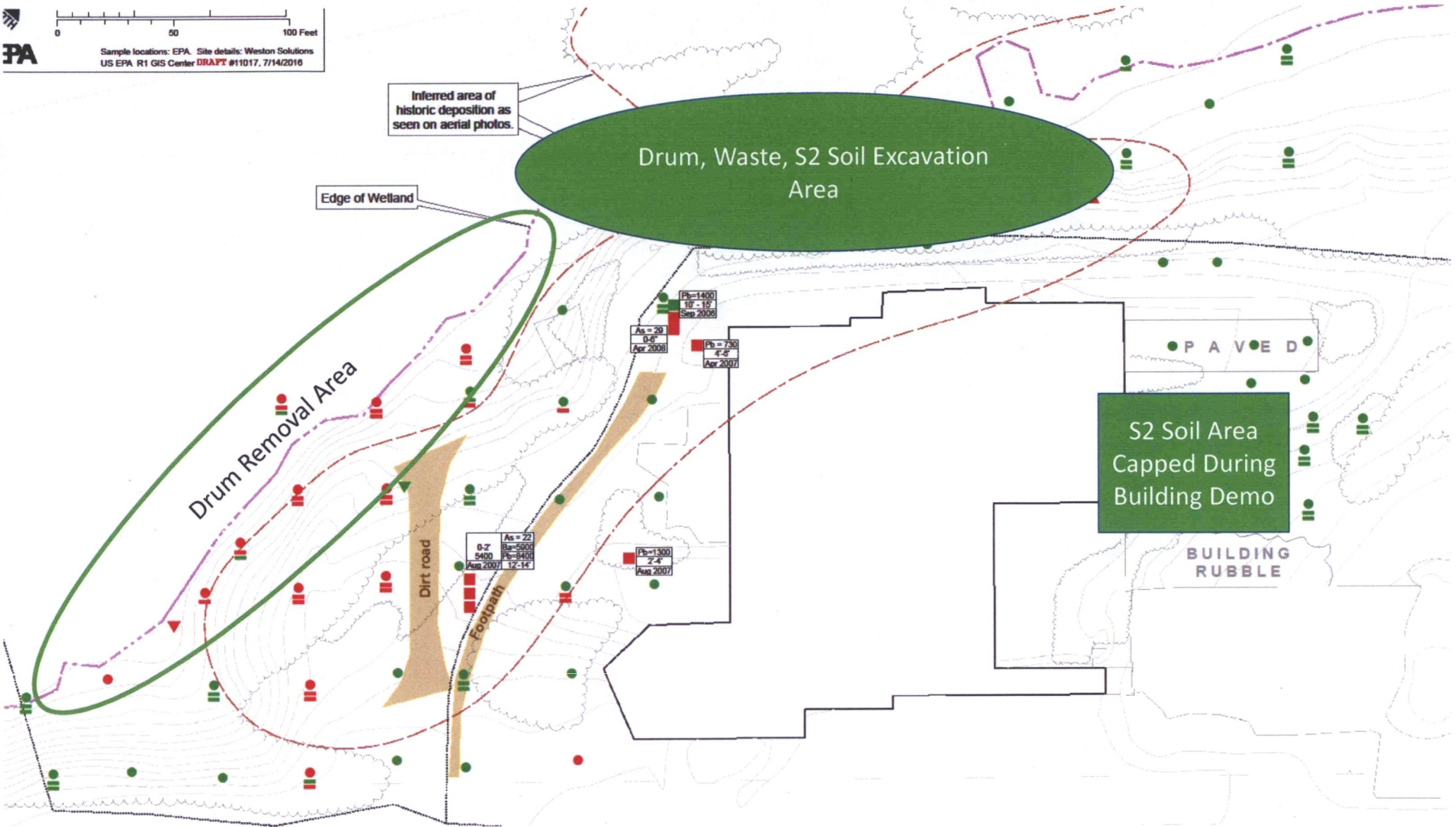
P A V E D

BUILDING RUBBLE

Pb=1400
 10'-15'
 Sep 2006
 As=29
 0-2'
 Apr 2008
 Pb=236
 4-6'
 Apr 2007

As=22
 0-2'
 5400
 Aug 2007
 Ba=500
 Pb=8400
 12-14'
 Aug 2007

Pb=1300
 2-4'
 Aug 2007



STATEMENT OF WORK
BJAT, LLC SUPERFUND SITE
FRANKLIN, MASSACHUSETTS

Pursuant to the
Administrative Order on Consent
To Perform a Removal Action

CERCLA Docket No. 01-2018-0009

BJAT, LLC Superfund Site: Statement of Work

Introduction

This statement of work (“SOW”) identifies the components of work required pursuant to the Administrative Order on Consent (“AOC”) (CERCLA Docket No. 01-2018-0009) for performance of a removal action at the BJAT, LLC Superfund Site (the “Site”) located in Franklin, Massachusetts. Under this SOW, BJAT, LLC and Hasco Associates, LP (“Respondents”) shall prepare and submit to the On-Scene Coordinator (“OSC”) for approval the items identified below. Respondents shall implement or submit each item under EPA approval. The removal action conducted under this AOC and SOW shall abate the potential danger to public health or welfare or the environment, which may otherwise result from the actual or threatened release of hazardous substances at or from the Site.

A. General Requirements

1. The Respondents shall communicate freely and frequently with the OSC prior to and during the development of plans and deliverables, and continually throughout the implementation of the work described in this SOW. Where deliverables are required, draft documents may be submitted for comments and consideration prior to the due date to prepare for submission of the final documents for OSC approval. EPA will notify Respondents of the identities of any OSC-designated representatives assigned to the Site during oversight of any on-site removal activities.
2. All work performed by the Respondents shall be conducted in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (“CERCLA”), the National Contingency Plan (“NCP”), 40 C.F.R. Part 300 and any applicable amendments thereto, applicable guidance documents provided by EPA, and the provisions of this SOW including any standards, specifications, and time schedules provided here or as specified by the OSC.
3. Each required plan generated pursuant to this SOW must be submitted to the OSC for approval prior to implementation.
4. Unless otherwise allowed or approved by EPA in writing, the Respondents shall perform and complete all activities that have been authorized in accordance with this SOW and AOC.
5. The Respondents may be required (if and to the extent authorized by applicable law) or may (at their discretion) request to alter or expand upon the plans after approval, based on new information, changes in Site conditions, or subsequently identified deficiencies.

BJAT, LLC Superfund Site: Statement of Work

6. Respondents shall, on a weekly basis, submit a written progress report to the EPA OSC concerning actions undertaken pursuant to this AOC after the date of receipt of EPA's approval of the Work Plan until termination of this AOC, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

B. Specific Requirements

The Respondents shall provide the technical experts, personnel, equipment and materials to perform and complete the following removal action tasks associated with this Site within the approved time schedule set forth in the AOC:

1. Deliver a site-specific Health and Safety Plan ("HASP") for EPA review, as required by NCP § 300.150 and in accordance with OSHA regulations 29 CFR Parts 1910, 1926 and 1904. The HASP must:
 - a) Be initiated at the commencement and implemented throughout all stages of the removal action for the duration of all field activities;
 - b) Provide equipment and supplies needed to comply with the HASP. Perform all work in compliance with the HASP;
 - c) Include contingency planning; and
 - d) Incorporate all changes recommended by EPA.

All employers are responsible for the health and safety of their employees and maintaining compliance with OSHA. Nothing contained in the SOW or any approved plans shall relieve the Respondents of their liability in this regard.

2. Develop a site-specific Removal Work Plan to address the remediation strategy, including timelines for all hazardous material, pollutants, and contaminants;
3. Develop a site-specific Quality Assurance Project Plan ("QAPP") consistent with EPA Region I's Quality Assurance Project Plan ("QAPP") to assure that all analytical results generated during the removal activities are of known quality;
4. Develop a site-specific sampling and analysis plan ("SAP") for sampling, identification and hazard characterization of all waste and materials located at the Site which has been designated by the OSC as requiring disposal or restaging (e.g., sampling

BJAT, LLC Superfund Site: Statement of Work

will include, but not be limited to, all drums and containers of waste material located in the area to be addressed by the removal action, and soil samples as necessary);

5. Develop an air monitoring plan and perform air monitoring, as required, to ensure worker and public safety during removal activities;
6. Secure work areas from intrusion with temporary chain-link fence, high visibility fence, caution tape, signs and/or secure all or a portion of the site with a security guard;
7. Establish and maintain a command post at the Site;
8. Mobilize to the site. Establish work zones, establish site services, and otherwise prepare to excavate and ship off site drums, waste and contaminated soil on properties identified in the attached Action Memorandum.
9. Clear and grub areas to be excavated. Install erosion control. Maintain erosion control such that it is fully functional while installed. Excavate drums, waste, and contaminated soil. Stage and secure on site. Obtain representative samples adequate to arrange for disposal and/or on-site pre-treatment.
10. Control dust by covering, wetting with water, or otherwise securing soil such that dust is minimized on site, and prevented from migrating off site.
11. Determine if soil can be treated on site in a manner that will reduce the cost of disposal. Provide a report that compares the cost of on-site treatment prior to disposal, to off-site disposal without treatment. Determine and include in the report, if waste and/or drums can be combined with each other, or with soil, to reduce disposal cost.
12. Dispose of materials in accordance with 40 CFR § 300.440, Procedures for Planning and Implementing Off-Site Response Actions. Determine that all disposal facilities are EPA-approved and are in compliance with the CERCLA Off-Site Rule, 40 CFR § 300.440 regarding off-site disposal facilities;
13. Provide and affix all appropriate labels in accordance with state and federal regulations for storage, transportation, and/or disposal of waste streams, as appropriate;
14. Vehicles transporting waste off site shall be properly placarded as required to comply with DOT and/or state regulations.
15. For soil or other waste that is hazardous waste or a state special waste, complete waste profiles, assign all appropriate federal and/or state waste codes, and provide and attach to transport vehicles all placards required to comply with DOT and/or state regulations.

BJAT, LLC Superfund Site: Statement of Work

16. Provide soil, stone, and/or related building materials for temporary roads, containment, erosion control, backfill, and restoration. Provide soil & stone from off site and that is uncontaminated, meaning that analysis has been performed and shows that both state cleanup standards and EPA site cleanup standards are not exceeded (if different than state standards), except as may be provided in writing by the OSC. **Assure the lab's detection limit is less than the applicable standard.**

17. Perform property restoration, including, but not limited to, the following: Backfill excavated areas. Re-vegetate to prevent erosion. Repair response-related damage.

C. Deliverables and Reporting Instructions and Requirements

1. Supervising Contractor and Project Coordinator

The Respondents shall propose an environmental consulting services contractor or an environmental services cleanup contractor for the purpose of performing and/or supervising the work required by this AOC in accordance with the terms and conditions of the AOC and shall notify EPA of the name(s) and qualifications of such contractor(s) within seven (7) days of the Effective Date. Respondents shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work under this AOC at least seven (7) days prior to commencement of such Work. EPA retains the right to disapprove of a selected contractor. If EPA disapproves of a selected contractor, Respondents shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within seven (7) days of EPA's disapproval.

Within seven (7) days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this AOC and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. The Project Coordinator shall be present on Site while Respondents' contractors are conducting removal activities, as required in the SOW. EPA retains the right to disapprove the designated Project Coordinator. If EPA disapproves the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within seven (7) days following EPA's disapproval.

Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this AOC shall constitute receipt by Respondents.

2. Site Security Plan

The Respondents shall take reasonable precautions, in consultation with EPA, to prevent unauthorized access onto the Site for the duration of the removal action. If,

BJAT, LLC Superfund Site: Statement of Work

in the judgment of the OSC, these precautions are not preventing unauthorized access to the Site, the Respondents shall institute additional security measures, which may include 24-hour security, until the removal action is completed.

3. Removal Work Plan

Within 14 days of the Effective Date of the AOC the Respondents shall submit a draft Removal Work Plan for EPA approval that describes how the Respondents will complete the work in the SOW, including a proposed schedule for performing the work. The schedule shall be in the form of a progress chart (e.g. GANTT chart) of suitable scale to indicate appropriately the percentage of work anticipated to be complete by a given date during the period of performance. The plan should be technically sound, consistent and integrated with each of the other required plans. The plan shall provide a description of the major tasks and sub-tasks and identify the methods that will be used including, but not limited to:

- a) Cleanup actions for the removal and disposal of drums or containers of hazardous waste and contaminated soil to eliminate the conditions that necessitate the removal under Section 300.415(b)(2) of the National Contingency Plan, as described in the Action Memorandum for this Site. The Work Plan shall identify any details of potential excavation and/or capping of any contaminated soils.
- b) Cleanup levels and specifics regarding how, through additional sampling or other actions, it will be documented that cleanup levels and/or requirements have been attained.
- c) Identifies other applicable or relevant and appropriate requirements (“ARARs”), and how the Work Plan will comply with them.
- d) Provides a detailed schedule for carrying out the removal, noting the completion date for interim activities. The schedule shall reflect all tasks/sub-tasks identified in the work plan and identify the milestone dates (estimated start and finish dates) during which each task shall be performed.
- e) Include a detailed Community Relations Plan jointly with the OSC that identifies how the Site management will interact with, and convey information to, residents and businesses abutting or adjacent to the Site, government officials, and general community.
- f) Describes the monitoring, engineering controls and other actions to be employed, which will demonstrate that the persons at adjacent properties will not be exposed to contaminants present at the Site as a result of implementing required actions. Air monitoring to address the off-site migration of airborne contaminants must be specifically addressed in the Work Plan, the Health and Safety Plan, or in a separate, stand-alone plan.

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“Monitoring” means to collect and analyze air samples to identify the concentration of airborne contaminants. Monitoring data will provide the basis for determining if additional engineering controls or other actions are necessary to achieve the goal of protection of persons other than Site workers. On-site monitoring data used to assure worker protection in accordance with OSHA can be used to meet the requirement in the above paragraph, but must be augmented where such information alone does not demonstrate that off-site exposures are not occurring.

Examples of “engineering controls” include but are not limited to covering soil stockpiles, wetting, limiting the area of excavation, capturing and treating air emissions, and providing a temporary structure over excavation areas, if any.

Examples of “Other actions” include but are not limited to, posting warning signs, posting a security guard, installing additional permanent or temporary fencing, or any combination of these.

- g) The quantity and types of personnel and equipment to be used including hours to be worked linked to the identified tasks, as well as the overall project schedule;
- h) Water run-off procedures for the duration of the removal action, which will account for, but not limited to, decontamination waters from the cleaning of drums and containers, as well as decontamination waters produced during waste characterization activities; and
- i) contingency plans.

4. Sampling and Analysis Plan (SAP)

For the media characterization, the plan shall include a Sampling and Analysis Plan (“SAP”) that will discuss, but not be limited to, sample methodology; the name, address, and point of contact of the laboratory that will be utilized; and quality assurance/quality control (“QA/QC”) procedures. The SAP shall also include the EPA standard methods to be used for analysis.

5. Quality Assurance Project Plan (QAPP)

Prior to the commencement of any sampling or monitoring activities under this AOC, Respondents shall submit a Quality Assurance Project Plan (“QAPP”). The QAPP shall be consistent with “EPA Requirements for Quality Assurance Project Plans (QA/R5)” (EPA/240/B-01/003, March 2001, reissued May 2006), and “Guidance for Quality Assurance Project Plans (QA/G-5)” (EPA/240/R-02/009, December 2002).

6. Site Specific Health and Safety Plan (HASP)

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Seven (7) days after EPA approval of the Removal Work Plan, the Respondents shall submit a Site Specific Health and Safety Plan ("HASP"). Respondents shall submit for EPA review and comment a HASP that ensures the protection of the public health and safety during performance of work under this AOC.

The HASP shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable OSHA regulations found at 29 C.F.R. Part 1910. The HASP must also include an Air Monitoring Plan for all site work. These plans will address personal protective equipment based on airborne contamination levels, monitoring and calibration of air monitoring equipment, personnel monitoring to determine worker safety levels, perimeter air monitoring to ensure public safety, dust and contaminant reduction techniques. The HASP shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

7. Transportation and Disposal Plan (T&D Plan)

Within 14 days of the Effective Date of the AOC the Respondents shall submit a Transportation and Disposal ("T&D") Plan. The Respondents shall submit to EPA for approval the T&D facilities where Respondents will transport any waste material away from the Site to an off-Site disposal facility. By telephone or otherwise, the Respondents shall inform the OSC of any disposal shipments no less than three (3) working days prior to the event.

Transporters and disposal facilities must have a proper license and permit for handling the constituents of the waste from the Site. The T&D Plan shall describe how all waste streams involving hazardous substances will be packaged, staged, and prepared for disposal (with applicable name, address, and RCRA identification number of the proposed disposal facility).

8. During the Removal Action

The Respondents shall submit to EPA a progress report every week detailing Site activities, problems encountered, other important issues, and activities anticipated in the week to follow. Respondents shall submit a written progress report to EPA from the date of receipt of EPA's approval of the Removal Work Plan until issuance of Notice of Completion of Work, unless otherwise directed in writing by the OSC.

9. Final Report

DUE THIRTY (30) DAYS AFTER COMPLETING THE TASKS OUTLINED IN THE WORKPLAN

Respondents shall submit to EPA for approval a Final Report. The final report shall conform to the requirements set forth in Section 300.165 of the NCP entitled "OSC

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Reports.” In addition to fulfilling the requirements of the AOC, the Final Report shall include:

- a) A list of all required activities and certification that each has been completed in accordance with approved plans;
- b) A legible copy of all shipping papers and waste manifests, for hazardous and non-hazardous waste, signed by the disposal facility; and any other disposal documents;
- c) If appropriate, a list of all clean-up levels approved by EPA with data showing that these levels are no longer exceeded at the site;
- d) Original photographs with a written description to document completion of work task;
- e) Tabular summary of all analytical results;
- f) Tabular summary of all waste shipped or treated for a period not to exceed one month, the name of each waste stream, state and federal waste codes assigned (if any), the total weight, and the total number of shipments.
- g) If appropriate, sketches and other forms of documentation showing site conditions at commencement of site work, interim milestones, and final site conditions, including data supporting the completion of work; and
- h) An estimate of the Respondents' costs incurred.

End of Scope of Work