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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUL 24 2018

REPLY TO THE ATTENTION OF

S-6J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Magnetrol International, Inc.  
c/o Brian Pelletier, Staff Counsel  
705 Enterprise Street  
Aurora, Illinois 60504

Re: 5300 Belmont Road, Ellsworth Industrial Park Superfund Site  
Downers Grove, DuPage County, Illinois  
Site/Spill Identifier (SSID): B52A  
Administrative Settlement Agreement and Order on Consent (ASAOC)


Dear Mr. Pelletier:

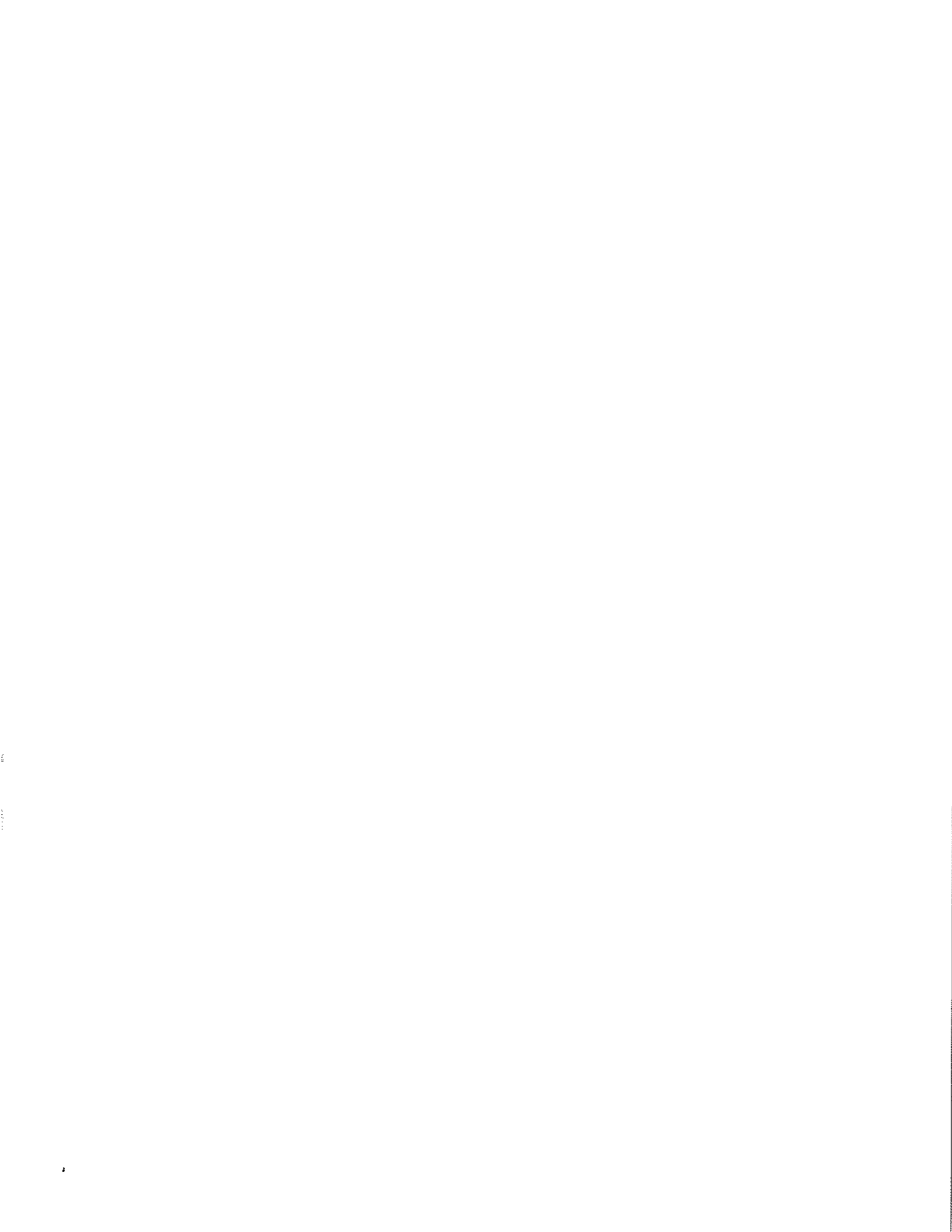
Enclosed please find an executed copy of the Administrative Settlement Agreement and Order on Consent (ASAOC) issued for this Site pursuant to Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622. Thank you for your cooperation in this matter.

Because Appendix B is voluminous, and is the approved Removal Work Plan your company generated, a hard copy of that document is not enclosed. You will also receive an electronic copy of the entire ASAOC, including all appendices, by e-mail.

If you have any questions regarding this ASAOC, please contact Matthew Dawson, Assistant Regional Counsel, at (312) 886-4360 or at [dawson.matthew@epa.gov](mailto:dawson.matthew@epa.gov), or Ramon Mendoza, On-Scene Coordinator, at (312) 886-4134 or at [mendoza.ramon@epa.gov](mailto:mendoza.ramon@epa.gov).

Sincerely,

  
Douglas Ballotti  
Acting Director  
Superfund Division



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

V-W-18-C-011

\_\_\_\_\_  
IN THE MATTER OF: )

5300 Belmont Road )  
Ellsworth Industrial Park Site )  
Downers Grove, Illinois )

Magnetrol International, Inc. )

Respondent. )

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 )  
\_\_\_\_\_ )

Docket No. \_\_\_\_

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

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Appendix A – Site Location Map

Appendix B – Removal Work Plan

## **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 Magnetrol International, Inc. (“Respondent”). This Settlement provides for the performance of a removal action by Respondent and the payment of certain response costs incurred by the United States at or in connection with the property located at 5300 Belmont Road, Downers Grove, DuPage County, Illinois, which is part of the Ellsworth Industrial Park Site (the “Site”).

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. 14-14A (Determinations of Imminent and Substantial Endangerment, Jan. 31, 2017), 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). This authority was further redelegated by the Regional Administrator of EPA Region 5 to the Superfund Division Director by Regional Delegation Nos. 14-14 A, 14-14-C and 14-14-D.

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

4. EPA and Respondent recognize that this Settlement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV (Findings of Fact) and V (Conclusions of Law and Determinations) of this Settlement. Respondent agrees to comply with and be bound by the terms of this Settlement and further agrees that it 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 Respondent and its successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent’s responsibilities under this Settlement.

6. Each undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement and to execute and legally bind Respondent to this Settlement.

7. Respondent shall be responsible for ensuring that its 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:

“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.

“Illinois EPA” shall mean the Illinois Environmental Protection Agency and any successor departments or agencies of the State of Illinois.

“Future Oversight Costs” shall mean all costs, including, but not limited to, direct and indirect costs, payroll costs, contractor costs, travel costs, and laboratory costs, that the United States incurs after the Effective Date under or in connection with the Settlement for monitoring and supervising Respondent’s performance of the Work to determine whether such performance is consistent with the requirements of this Settlement, including costs incurred in reviewing deliverables submitted pursuant to this Settlement, as well as costs incurred in overseeing implementation of the work.

“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 Respondent.

“Post-Removal Site Control” shall mean actions necessary to ensure the effectiveness and integrity of the removal action to be performed pursuant to this Settlement consistent with Sections 300.415(*I*) and 300.5 of the NCP and “Policy on Management of Post-Removal Site Control” (OSWER Directive No. 9360.2-02, Dec. 3, 1990).

“Property” shall mean the real property encompassing approximately 9.23 acres located at 5300 Belmont Road, Downers Grove, DuPage County, Illinois, and depicted generally on the map attached as Appendix A.

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

“Removal Work Plan” shall mean the work plan for implementation of the removal action, as set forth in Appendix B to this Settlement, and any modification made thereto in accordance with this Settlement.

“Respondent” shall mean Magnetrol International, Inc.

“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 Ellsworth Industrial Park Superfund Site. The approximate borders of the industrial park are Burlington Avenue on the north, Belmont Road on the east, Elmore and Inverness Avenues on the south, and I-355 on the west. St. Joseph's Creek runs through the northern end of the Site. The Site also includes areas to the south and east of the industrial park where groundwater contamination has come to be located. A map depicting the general location of the Site is attached as Appendix A.

“State” shall mean the State of Illinois.

“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 415 Illinois Compiled Statutes 5/3.220.

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

#### IV. FINDINGS OF FACT

9. Based on available information, including the Administrative Record in this matter, EPA hereby finds that:

a. The industrial park portion of the Site is located in Downers Grove, Illinois. The approximate borders of the industrial park are Burlington Avenue on the north, Belmont Road on the east, Elmore and Inverness Avenues on the south, and I-355 on the west. St. Joseph's Creek runs through the northern end of the Site. The Site also includes areas to the south and east of the industrial park where groundwater contamination has come to be located.

b. Respondent is the present owner of the Property, which comprises a portion of the Site.

c. Respondent has allegedly used solvents containing volatile organic compounds ("VOCs"), including trichloroethylene ("TCE") and trichloroethane ("TCA") in its degreasing operations at the Property, and VOCs have been detected at the Property.

d. Respondent vacated the Property in 2013, and the Property remains unoccupied as of the date of this Settlement.

e. Soil and groundwater sampling results obtained during Site investigations by EPA and Illinois EPA, and by Respondent, identified the presence of the VOCs TCE, tetrachloroethylene ("PCE"), and TCA in soil and groundwater at the Site at levels of potential concern. Sampling data collected by Illinois EPA also indicates that TCE, PCE, and TCA contamination from the Site migrated to residential drinking water wells located to the south and east of the industrial park portion of the Site. These results are summarized in several reports, including:

(1) Final Preliminary Groundwater Investigation Report, Downers Grove Groundwater Site, Downers Grove, DuPage County, Illinois dated May 2002 and prepared for EPA by Roy F. Weston, Inc.

(2) Phase II Site Assessment Report, Ellsworth Industrial Park, Downers Grove, DuPage County, Illinois, dated August 2002 and prepared for EPA by Weston Solutions, Inc.

(3) Data Evaluation Summary Report, Revision 1, Ellsworth Industrial Park Site, Downers Grove, Illinois dated August 3, 2004 and prepared for EPA by Weston Solutions, Inc.

(4) Preliminary Planning Report Ellsworth Industrial Park Site, Downers Grove, DuPage County, Illinois dated March 2006 and prepared for EPA by Weston Solutions, Inc.



(5) Environmental Investigation Report – Magnetrol International, Inc. dated May 18, 2006 and prepared by Mostardi Platt Environmental.

(6) Remedial Investigation Report, Revision 1, Ellsworth Industrial Park – Operable Unit 1, Downers Grove, DuPage County, Illinois, dated September 2014 and prepared for EPA by Weston Solutions, Inc.

f. On August 8, 2003, a group of potentially responsible parties ("PRPs"), including the Respondent, entered a CERCLA settlement with EPA in the form of an Administrative Order on Consent. Under that settlement, certain of the PRPs (all of whom denied liability) agreed to repay loans to the Village of Downers Grove up to \$4.275 million to hook up approximately 800 residences to the south and east of the industrial park to a public drinking water supply.

g. On January 14, 2009, the State and Respondent entered into a Consent Order in the matter of People of the State of Illinois v. Precision Brand Products, et al., 2003 CH 979, Circuit Court of DuPage County, Illinois, wherein Respondent agreed to certain, required, future activities on its property including investigation and/or removal, if necessary.

h. On September 29, 2005, a group of PRPs, including the Respondent, entered a CERCLA settlement with EPA in the form of an Administrative Order on Consent. Under that settlement, certain of the PRPs (all of whom denied liability) agreed to provide funding for EPA to perform a Remedial Investigation/Feasibility Study ("RI/FS") at Operable Unit 1 ("OU1") at the Ellsworth Industrial Park.

i. Data gathered in the Weston Solutions, Inc. site investigations, in the OU1 RI, and in supplemental sampling conducted by the Respondent, indicates levels of TCE in soils at the Property at levels as high as 178 milligrams/kilogram (mg/kg).

j. Additional sub-slab passive soil gas and indoor sampling conducted by Respondent the week of June 18, 2018 indicates TCE concentrations in soil gas as high as 1,350,000 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) and in indoor air samples as high as  $18.8 \mu\text{g}/\text{m}^3$  which exceed the EPA Removal Management Equivalent Level (RMEL) of  $8.8 \mu\text{g}/\text{m}^3$  for indoor air and  $290 \mu\text{g}/\text{m}^3$  for sub slab.

k. A risk assessment conducted by EPA as part of the OU1 RI supports the conclusion that the soil concentrations of VOCs at the Property present an unacceptable risk to human health through direct contact with contaminated soil, through migration of soil contamination into groundwater, and through migration of contamination through soil vapor.

l. The threats of release at the Property include the disturbance of contaminated soil creating direct human contact, migration of existing VOC contaminants in surface and subsurface soils to groundwater, and migration of contaminants through soil gas.

## V. CONCLUSIONS OF LAW AND DETERMINATIONS

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

a. The Ellsworth Industrial Park Site is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9) and the Property is a part of the facility.

b. The contamination found at the Site and at the Property, as identified in the Findings of Fact above, includes “hazardous substances” as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. Respondent is a “person” as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is liable for performance of response action and for response costs incurred and to be incurred at the Site.

(1) Respondent is the “owner” and/or “operator” of a portion 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).

(2) Respondent was the “owner” and/or “operator” of a portion of the facility at the time of disposal of hazardous substances at the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

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 conditions described in the Findings of Fact above may constitute an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from the facility within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

g. 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**

11. 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 Respondent 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**

12. Respondent 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 5 days after the Effective Date. Respondent 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 5 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 Respondent. If EPA disapproves of a selected contractor or subcontractor, Respondent 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 3 days after EPA's disapproval. With respect to any proposed contractor, Respondent 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 Respondent 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.

13. Respondent has designated, and EPA has not disapproved, the following individual as Project Coordinator, who shall be responsible for administration of all actions by Respondent required by this Settlement: Mr. Frank Santella, Sr. Project Manager, KPRG & Associates, Inc., 414 Plaza Drive, Suite 106, Westmont, Illinois, 60559, (630) 325-1300; FrankS@KPRGINC.com. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. Notice or communication relating to this Settlement from EPA to Respondent's Project Coordinator shall constitute notice or communication to Respondent.

14. EPA has designated Ramon C. Mendoza of the Superfund Division Emergency Response Branch #2 of EPA Region 5 as its On-Scene Coordinator (OSC). EPA and Respondent shall have the right, subject to Paragraph 13, to change their respective designated OSC or Project Coordinator. Respondent shall notify EPA as early as possible before such a change is made, but in no case less than 24 hours before such a change. The initial notification by Respondent may be made orally, but shall be promptly followed by a written notice.

15. The OSC shall be responsible for overseeing Respondent's 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**

16. Respondent shall perform, at a minimum, all actions necessary to implement the Work set forth in the approved Removal Work Plan attached hereto as Appendix B. The actions to be implemented generally include, but are not limited to, the following:

a. Characterize, remove and properly handle and dispose of all soil contamination at the Property at levels at or above 33 mg/kg of TCA, 1.1 mg/kg of PCE and 1.2 mg/kg of TCE.

b. Provide verification that the existing building at the Property is equipped with a heating, ventilation and air conditioning (HVAC) system or other mitigation consistent with EPA guidance on vapor intrusion mitigation.

c. Install a vapor abatement system, as appropriate and consistent with EPA guidance on vapor intrusion mitigation, if indoor air data is above EPA Removal Management levels after the contaminated soil is removed.

17. 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 Respondent receives notification from EPA of the modification, amendment, or replacement.

#### **18. Work Plan and Implementation**

a. Respondent has submitted to EPA, and EPA has approved, a work plan for performing the removal action (the "Removal Work Plan") generally described in Paragraph 16, above. The Removal Work Plan, which is attached as Appendix B, includes a description of the actions required by this Settlement.

b. Respondent shall implement the Removal Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. The Removal Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Settlement. Respondent shall not commence or perform any Work except in conformance with the terms of this Settlement.

c. EPA may approve, disapprove, require revisions to, or modify the any additional deliverables that require EPA approval under the Removal Work Plan in whole or in part. If EPA requires revisions, Respondent shall submit a revised deliverable within 10 days after receipt of EPA's notification of the required revisions. Once approved, or approved with modifications, such deliverables shall be incorporated into and become fully enforceable under this Settlement.

#### **19. Submission of Deliverables**

##### **a. General Requirements for Deliverables**

(1) Except as otherwise provided in this Settlement, Respondent shall direct all submissions required by this Settlement to the OSC at Ramon C. Mendoza (SE-5J), Superfund Division, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-4314, mendoza.ramon@epa.gov. Respondent shall submit all deliverables required by this Settlement or any approved work plan to EPA in accordance with the schedule approved by EPA.

(2) Respondent shall submit all deliverables in electronic form. Technical specifications for sampling and monitoring data and spatial data are addressed in Paragraph 19.b. All other deliverables shall be submitted to EPA in the form specified by the OSC. If any deliverable includes maps, drawings, or other exhibits that are larger than 8.5 x 11 inches, Respondent shall also provide EPA 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. 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://www.epa.gov/geospatial/epa-metadata-editor>.

(3) Each file must include an attribute name for each site unit or sub-unit 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 Respondent does not, and is not intended to, define the boundaries of the Site.

20. **Health and Safety Plan.** Respondent has submitted 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.epaosc.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. The plan shall describe in detail the air monitoring to be conducted to protect workers and the public. If EPA determines that it is appropriate, the plan shall also include contingency planning. Respondent

shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

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

a. Respondent has submitted to EPA a Quality Assurance Project Plan (QAPP) and a Field Sampling Plan (FSP) as part of the approved Removal Work Plan. Respondent and its contractors shall comply with the QAPP and FSP included as part of the approved Removal Work Plan.

b. Respondent shall ensure that EPA and State personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Respondent in implementing this Settlement.

c. Upon request, Respondent shall provide split or duplicate samples to EPA and the State or their authorized representatives. Respondent shall notify EPA and the State not less than 7 days in advance of any sample collection activity unless shorter notice is agreed to by EPA. In addition, EPA and the State shall have the right to take any additional samples that EPA or the State deem necessary. Upon request, EPA and the State shall provide to Respondent split or duplicate samples of any samples they take as part of EPA's oversight of Respondent's implementation of the Work.

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

e. Respondent waives any objections to any data gathered, generated, or evaluated by EPA, the State or Respondent 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, FSP, or QAPP. If Respondent objects to any other data relating to the Work, Respondent shall submit to EPA a report that specifically identifies and explains its 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.

**22. Community Involvement Plan.** EPA may prepare a community involvement plan, in accordance with EPA guidance and the NCP. If requested by EPA, Respondent shall participate in community involvement activities, including participation in (1) the preparation of information regarding the Work for dissemination to the public, with consideration given to including mass media and/or Internet notification, and (2) public meetings that may be held or sponsored by EPA to explain activities at or relating to the Site. Respondent's support of EPA's community involvement activities may include providing online access to initial submissions and updates of deliverables to (1) any community advisory groups, (2) any technical assistance grant recipients and their advisors, and (3) other entities to provide them with a reasonable opportunity for review and comment. All community involvement activities conducted by Respondent at EPA's request are subject to EPA's oversight. Upon EPA's request, Respondent shall establish a

community information repository at or near the Site to house one copy of the administrative record.

23. **Post-Removal Site Control.** In accordance with the Removal Work Plan schedule, or as otherwise directed by EPA, Respondent shall submit a proposal for Post-Removal Site Control consistent with Section 300.415(*l*) of the NCP and OSWER Directive No. 9360.2-02 which shall include, but not be limited to, an operation and maintenance plan for ventilation and vapor barriers at any structures built or to be built at the Property. Upon EPA approval, Respondent shall either conduct Post-Removal Site Control activities, or obtain a written commitment from another party for conduct of such activities, until such time as EPA determines that no further Post-Removal Site Control is necessary. Respondent shall provide EPA with documentation of all Post-Removal Site Control commitments.

24. **Progress Reports.** Respondent shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement on a monthly basis, or as otherwise requested by EPA, from the Effective Date of this Settlement 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.

25. **Final Report.** Within 60 days after completion of all Work required by this Settlement, other than continuing obligations listed in Paragraph 91 (notice of completion), Respondent shall submit for EPA review and approval 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" and with "Superfund Removal Procedures: Removal Response Reporting – POLREPS and OSC Reports" (OSWER Directive No. 9360.3-03, June 1, 1994). 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 a Respondent or Respondent's 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."

## 26. Off-Site Shipments

a. Respondent 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. Respondent will be deemed to be in compliance with CERCLA Section 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if Respondent obtains 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).

b. Respondent may ship Waste Material from the Site to an out-of-state waste management facility only if, prior to any shipment, it provides 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. Respondent 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. Respondent shall provide the written notice after the award of the contract for the removal action and before the Waste Material is shipped.

c. Respondent 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

27. Respondent shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Property, or such other appropriate property owned by Respondent, for the purpose of conducting any activity related to this Settlement Agreement.

28. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall use its best efforts to obtain all necessary access agreements within 10 business days after the Effective Date, or as otherwise specified in writing by the OSC. Respondent shall immediately notify EPA if after using its best efforts it is unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondent shall describe in writing its efforts to obtain access. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate. Respondent shall reimburse EPA for all costs and attorneys' fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XIV (Payment of Response Costs).



29. Notwithstanding any provision of this Settlement Agreement, EPA and the State retain all of their access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

## **X. ACCESS TO INFORMATION**

30. Respondent shall provide to EPA and the State, 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 Respondent's possession or control or that of its 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. Respondent shall also make available to EPA and the State, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

### **31. Privileged and Protected Claims**

a. Respondent may assert all or part of a Record requested by EPA or the State is privileged or protected as provided under federal law, in lieu of providing the Record, provided Respondent complies with Paragraph 31.b, and except as provided in Paragraph 31.c.

b. If Respondent asserts such a privilege or protection, it shall provide EPA and the State 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, Respondent shall provide the Record to EPA and the State in redacted form to mask the privileged or protected portion only. Respondent shall retain all Records that it claims to be privileged or protected until EPA and the State have had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Respondent's favor.

c. Respondent 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 Respondent is required to create or generate pursuant to this Settlement.

32. **Business Confidential Claims.** Respondent may assert that all or part of a Record provided to EPA and the State 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). Respondent shall segregate and clearly identify all Records or parts thereof submitted under this Settlement for which Respondent asserts business confidentiality claims. Records that Respondent claims to be confidential business 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

and the State, or if EPA has notified Respondent 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 Respondent.

33. Notwithstanding any provision of this Settlement, EPA and the State retain all of their 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**

34. Until six years after EPA provides Respondent with notice, pursuant to Section XXVII (Notice of Completion of Work), that all Work has been fully performed in accordance with this Settlement, Respondent shall preserve and retain all non-identical copies of Records (including Records in electronic form) now in its possession or control, or that come into its possession or control, that relate in any manner to its liability under CERCLA with regard to the Site and, in addition, all Records that relate to the liability of any other person under CERCLA with respect to the Site. Respondent must also retain, and instruct its 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 its possession or control or that come into its possession or control that relate in any manner to the performance of the Work and, 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.

35. At the conclusion of the document retention period, Respondent shall notify EPA and the State at least 90 days prior to the destruction of any such Records, and, upon request by EPA or the State, and except as provided in Paragraph 31 (Privileged and Protected Claims), Respondent shall deliver any such Records to EPA or the State.

36. Respondent certifies that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State and that it has 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**

37. Nothing in this Settlement limits Respondent's obligations to comply with the requirements of all applicable state and federal laws and regulations, except as provided in 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.

38. 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, Respondent shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. Respondent 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**

39. **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, Respondent shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release. Respondent shall take these actions in accordance with all applicable provisions of this Settlement, including, but not limited to, the Health and Safety Plan. Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, the Regional Duty Officer at (312) 353-2318 of the incident or Site conditions. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondent shall reimburse EPA for all costs of such response action not inconsistent with the NCP pursuant to Section XIV (Payment of Response Costs).

40. **Release Reporting.** Upon the occurrence of any event during performance of the Work that Respondent is 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, Respondent shall immediately orally notify the OSC or, in the event of his/her unavailability, the Regional Duty Officer at (312) 353-2318, 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.

41. For any event covered under this Section, Respondent 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

### 42. Payments for Future Oversight Costs.

a. Respondent shall pay to EPA all Future Oversight Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondent a bill requiring payment that consists of an Itemized Cost Summary, which includes direct and indirect costs incurred by EPA, its contractors, subcontractors, and the United States Department of Justice. Respondent shall make all payments within 30 days after Respondent's receipt of each bill requiring payment, except as otherwise provided in Paragraph 44 (Contesting Future Oversight Costs).

b. Respondent 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 05B52A and the EPA docket number for this action.

c. At the time of payment, Respondent shall send notice that payment has been made to the OSC, and to the EPA Cincinnati Finance Center by email at [cinwd\\_acctsreceivable@epa.gov](mailto:cinwd_acctsreceivable@epa.gov), or by mail to:

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

Such notice shall reference Site/Spill ID Number 05B52A and the EPA docket number for this action.

43. **Interest.** In the event that any payment for Future Oversight Costs is not made by the date required, Respondent shall pay Interest on the unpaid balance. The Interest on Future Oversight Costs shall begin to accrue on the date of the bill. The Interest shall accrue through the date of Respondent's 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 Respondent's failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVII (Stipulated Penalties).

44. **Contesting Future Oversight Costs.** Respondent may initiate the procedures of Section XV (Dispute Resolution) regarding payment of any Future Oversight Costs billed under Paragraph 42 (Payments for Future Oversight Costs) if it determines that EPA has made a mathematical error or included a cost item that is not within the definition of Future Oversight

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, Respondent 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 Oversight Costs and the basis for objection. If Respondent submits a Notice of Dispute, Respondent shall within the 30-day period, also as a requirement for initiating the dispute, (a) pay all uncontested Future Oversight Costs to EPA in the manner described in Paragraph 42, 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 Oversight Costs. Respondent shall send to the OSC a copy of the transmittal letter and check paying the uncontested Future Oversight 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, Respondent shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 42. If Respondent prevails concerning any aspect of the contested costs, Respondent 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 42. Respondent 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 Respondent's obligation to reimburse EPA for its Future Oversight Costs.

## **XV. DISPUTE RESOLUTION**

45. 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.

46. **Informal Dispute Resolution.** If Respondent objects to any EPA action taken pursuant to this Settlement, including billings for Future Oversight Costs, it shall send EPA a written Notice of Dispute describing the objection(s) within 10 days after such action. EPA and Respondent shall have 10 days from EPA's receipt of Respondent's 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.

47. **Formal Dispute Resolution.** If the Parties are unable to reach an agreement within the Negotiation Period, Respondent 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 Superfund Division Director level or higher will issue a written decision on the dispute to Respondent. EPA's decision shall be incorporated into and become an enforceable part of this Settlement.

Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

48. Except as provided in Paragraph 44 (Contesting Future Oversight 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 Respondent under this Settlement. Except as provided in Paragraph 58, 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 Respondent does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XVII (Stipulated Penalties).

## **XVI. FORCE MAJEURE**

49. "Force Majeure" for purposes of this Settlement, is defined as any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent's contractors that delays or prevents the performance of any obligation under this Settlement despite Respondent's best efforts to fulfill the obligation. The requirement that Respondent 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, increased cost of performance, or a failure to attain the performance standards set forth in the Removal Work Plan.

50. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement for which Respondent intends or may intend to assert a claim of force majeure, Respondent 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 Superfund Division, EPA Region 5, within 24 hours of when Respondent first knew that the event might cause a delay. Within 7 days thereafter, Respondent 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; Respondent's rationale for attributing such delay to a force majeure; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health or welfare, or the environment. Respondent shall include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure. Respondent shall be deemed to know of any circumstance of which Respondent, any entity controlled by Respondent, or Respondent's contractors knew or should have known. Failure to comply with the above requirements regarding an event shall preclude Respondent 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 49 and whether Respondent has exercised its best efforts under Paragraph 49, EPA may, in its unreviewable discretion, excuse in writing Respondent's failure to submit timely or complete notices under this Paragraph.

51. 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 Respondent in writing of its decision. If EPA agrees that the delay is attributable to a force majeure, EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure.

52. If Respondent elects to invoke the dispute resolution procedures set forth in Section XV (Dispute Resolution), it shall do so no later than 10 days after receipt of EPA's notice. In any such proceeding, Respondent 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 Respondent complied with the requirements of Paragraphs 49 and 50. If Respondent carries this burden, the delay at issue shall be deemed not to be a violation by Respondent of the affected obligation of this Settlement identified to EPA.

53. 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 Respondent from meeting one or more deadlines under the Settlement, Respondent may seek relief under this Section.

## **XVII. STIPULATED PENALTIES**

54. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 55.a and 56 for failure to comply with the obligations specified in Paragraphs 55.b and 56, unless excused under Section XVI (Force Majeure). "Comply" as used in the previous sentence include compliance by Respondent with all applicable requirements of this Settlement, within the deadlines established under this Settlement.

### **55. 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 55.b:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$225	1st through 14th day
\$550	15th through 30th day
\$800	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 Oversight Costs under Paragraph 44 (Contesting Future Oversight Costs).

(3) Completion of work items on schedule.

56. **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 55.b:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$115	1st through 14th day
\$275	15th through 30th day
\$550	31st day and beyond

57. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 68 (Work Takeover), Respondent shall be liable for a stipulated penalty in the amount of \$800,000.

58. 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 18 (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 Respondent of any deficiency; and (b) with respect to a decision by the EPA Management Official at the Superfund Division Director level or higher, under Paragraph 47 (Formal Dispute Resolution), during the period, if any, beginning on the 21<sup>st</sup> 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.

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

60. All penalties accruing under this Section shall be due and payable to EPA within 30 days after Respondent's receipt from EPA of a demand for payment of the penalties, unless Respondent invokes 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 42 (Payments for Future Oversight Costs).

61. If Respondent fails to pay stipulated penalties when due, Respondent shall pay Interest on the unpaid stipulated penalties as follows: (a) if Respondent has 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 58 until the date of payment; and (b) if Respondent fails to timely invoke dispute resolution, Interest shall accrue from the date of demand under Paragraph 60 until the date of payment. If Respondent fails to pay stipulated penalties and Interest when due, the United States may institute proceedings to collect the penalties and Interest.

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

63. 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 Respondent's 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 68 (Work Takeover).

64. 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**

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

### **XIX. RESERVATIONS OF RIGHTS BY EPA**

66. 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 Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

67. 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 Respondent with respect to all other matters, including, but not limited to:

- a. liability for failure by Respondent to meet a requirement of this Settlement;
- b. liability for costs not included within the definition of Future Oversight 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 Oversight Costs under this Settlement.

**68. Work Takeover**

a. In the event EPA determines that Respondent: (1) has ceased implementation of any portion of the Work; (2) is seriously or repeatedly deficient or late in its performance of the Work; or (3) is 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 Respondent. 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 Respondent 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 68.a, Respondent has 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 Respondent in writing (which writing may be electronic) if EPA determines that implementation of a Work Takeover is warranted under this Paragraph 68.b.

c. Respondent may invoke the procedures set forth in Paragraph 47 (Formal Dispute Resolution) to dispute EPA’s implementation of a Work Takeover under Paragraph 68.b. However, notwithstanding Respondent’s 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 68.b until the earlier of (1) the date that Respondent remedies, to EPA’s satisfaction, the circumstances giving rise to EPA’s issuance of the relevant Work Takeover Notice, or (2) the date that a written decision terminating such Work Takeover is rendered in accordance with Paragraph 47 (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 RESPONDENT**

69. Respondent covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Oversight 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 Oversight Costs, and this Settlement; or

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.

70. Except as provided in Paragraph 74 (Waiver of Claims by Respondent), 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 67.a (liability for failure to meet a requirement of the Settlement), 67.d (criminal liability), or 67.e (violations of federal/state law during or after implementation of the Work), but only to the extent that Respondent’s claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

71. 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).

72. Respondent reserves, 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 Respondent's deliverables or activities.

73. Respondent agrees not to seek judicial review of the final rule listing the Site on the NPL based on a claim that changed site conditions that resulted from the performance of the Work in any way affected the basis for listing the Site.

**74. Waiver of Claims by Respondent**

a. Respondent agrees not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) that it may have:

(1) **De Micromis Waiver.** For all matters relating to the Site against any person where the person's liability to Respondent with respect to the Property is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

(2) **De Minimis/Ability to Pay Waiver.** For response costs relating to the Site against any person that has entered or in the future enters into a final Section 122(g) *de minimis* settlement or a final settlement based on limited ability to pay with EPA with respect to the Property.

**b. Exceptions to Waivers**

(1) The waivers under this Paragraph 74 shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person otherwise covered by such waivers if such person asserts a claim or cause of action relating to the Site against such Respondent.

(2) The waiver under Paragraph 74.a(1) (De Micromis Waiver) shall not apply to any claim or cause of action against any person otherwise covered by such waiver if EPA determines that: (i) the materials containing hazardous substances contributed to the Property by such person contributed significantly or

could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration at the Site; or (ii) such person has failed to comply with any information request or administrative subpoena issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. § 9604(e) or 9622(e), or Section 3007 of RCRA, 42 U.S.C. § 6927, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site; or if (iii) such person has been convicted of a criminal violation for the conduct to which the waiver would apply and that conviction has not been vitiated on appeal or otherwise.

## **XXI. OTHER CLAIMS**

75. 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 Respondent. The United States or EPA shall not be deemed a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement.

76. Except as expressly provided in Paragraphs 74 (Waiver of Claims by Respondent) and Section XVIII (Covenants by EPA), nothing in this Settlement constitutes a satisfaction of or release from any claim or cause of action against Respondent 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.

77. 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**

78. Except as provided in Paragraphs 74 (Waiver of Claims by Respondent), 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 Respondent), 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 Property 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).

79. The Parties agree that this Settlement constitutes an administrative settlement pursuant to which Respondent has, 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 is 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 Oversight Costs.

80. The Parties further agree that this Settlement constitutes an administrative settlement pursuant to which Respondent has, 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).

81. Respondent shall, with respect to any suit or claim brought by it for matters related to this Settlement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Respondent also shall, with respect to any suit or claim brought against it for matters related to this Settlement, notify EPA in writing within 10 days after service of the complaint or claim upon it. In addition, Respondent 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.

82. 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, Respondent 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**

83. The United States does not assume any liability by entering into this Settlement or by virtue of any designation of Respondent as EPA’s authorized representative under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and 40 C.F.R. 300.400(d)(3). Respondent 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 Respondent, its officers, directors, employees, agents, contractors, or subcontractors, and any persons acting on Respondent’s behalf or under its control, in carrying out activities pursuant to this Settlement. Further, Respondent agrees 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 Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under its 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 Respondent in carrying out activities pursuant to this Settlement. Neither Respondent nor any such contractor shall be considered an agent of the United States.

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

85. Respondent covenants not to sue and agrees 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 Respondent 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, Respondent 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 Respondent 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**

86. No later than 10 days before commencing any on-site Work, Respondent shall secure, and shall maintain until the first anniversary after issuance of Notice of Completion of Work pursuant to Section XXVII (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 Respondent pursuant to this Settlement. In addition, for the duration of the Settlement, Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondent 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, Respondent shall satisfy, or shall ensure that its 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 Respondent in furtherance of this Settlement. If Respondent demonstrates 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, Respondent need provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor. Respondent shall ensure that all submittals to EPA under this Paragraph identify Ellsworth Industrial Park Site, Magnetrol International, Inc., 5300 Belmont Road, Downers Grove, Illinois and the EPA docket number for this action.

#### **XXV. MODIFICATION**

87. The OSC may modify any plan or schedule 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.

88. If Respondent seeks permission to deviate from any approved work plan or schedule, Respondent's Project Coordinator shall submit a written request to EPA for approval

outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 87.

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

#### **XXVI. ADDITIONAL REMOVAL ACTION**

90. If EPA determines that additional removal actions not included in the Removal Work Plan or other approved plan(s) are necessary to protect public health, welfare, or the environment, EPA will notify Respondent of that determination. Unless otherwise stated by EPA, within 30 days after receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment, Respondent shall submit for approval by EPA a work plan for the additional removal actions. The plan shall conform to the applicable requirements of Section VIII (Work to Be Performed) of this Settlement. Upon EPA's approval of the plan pursuant to Paragraph 18 (Work Plan and Implementation), Respondent shall implement the plan for additional removal actions in accordance with the provisions and schedule contained therein. This Section does not alter or diminish the OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXV (Modification).

#### **XXVII. NOTICE OF COMPLETION OF WORK**

91. 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, including, e.g., Post-Removal Site Controls, payment of Future Oversight Costs, or record retention, EPA will provide written notice to Respondent. If EPA determines that such Work has not been completed in accordance with this Settlement, EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the Removal Work Plan if appropriate in order to correct such deficiencies. Respondent shall implement the modified and approved Removal Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondent to implement the approved modified Removal Work Plan shall be a violation of this Settlement.

#### **XXVIII. INTEGRATION/APPENDICES**

92. This Settlement and its appendices constitute the final, complete, and exclusive agreement and understanding between 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:

- a. "Appendix A" is a map depicting the general location of the Site.
- b. "Appendix B" is the Removal Work Plan.




**XXIX. EFFECTIVE DATE**

93. This Settlement shall be effective 2 days after the Settlement is signed by the Director of the Superfund Division of EPA Region 5.

IT IS SO AGREED AND ORDERED:

**U.S. ENVIRONMENTAL PROTECTION AGENCY:**

7/24/2018  
Dated

  
\_\_\_\_\_  
Douglas Ballotti,  
Acting Director, Superfund Division  
U.S. Environmental Protection Agency, Region 5

Signature Page for Settlement Regarding 5300 Belmont Road, Ellsworth Industrial Park  
Superfund Site

**FOR** \_\_\_\_\_ :  
Magnetrol International, Inc.

\_\_\_\_\_  
Dated

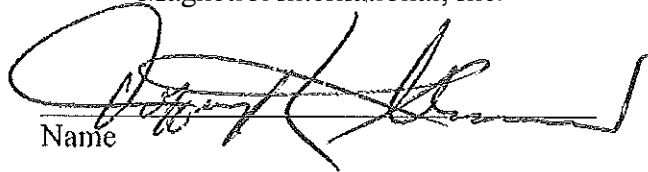
\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Signature Page for Settlement Regarding 5300 Belmont Road, Ellsworth Industrial Park Superfund Site

FOR Jeffrey K. Swallow :  
Magnetrol International, Inc.

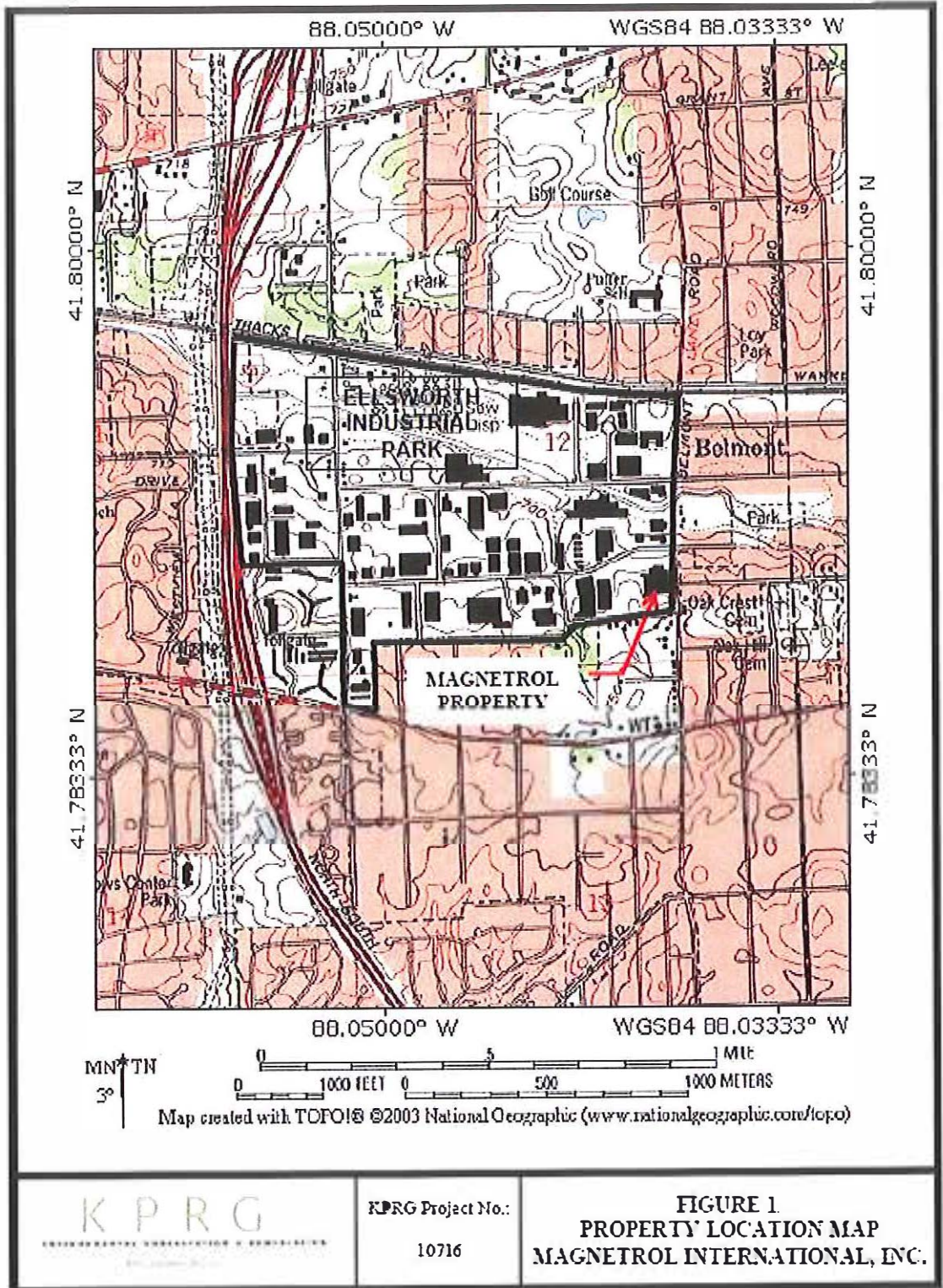
7/19/2018  
Dated

  
Name

Chairman & CEO  
Title



APPENDIX A –  
Site Location Map



APPENDIX B -  
Removal Work Plan

**REMOVAL ACTION WORK PLAN**

**ELLSWORTH INDUSTRIAL PARK  
MAGNETROL INTERNATIONAL, INC.  
5300 BELMONT ROAD  
DOWNERS GROVE, ILLINOIS**

**PREPARED BY:**

KPRG and Associates, Inc.  
414 Plaza Drive, Suite 106  
Westmont, Illinois 60559

KPRG Project No. 10716.1

June 15, 2018  
Rev-01, July 5, 2018



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Figure 2 – Areas of Concern Location Map

Figure 3 – Approximate Extent of TCE-Impacted Soil – Former Degreaser Area

Figure 4 – Approximate Extent of TCE-Impacted Soil – B-313 Area.

### APPENDICES

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