UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF: Wolverine World Wide Tannery and House Street Disposal Site Wolverine World Wide, 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	CERCLA Docket No. _____ V-W-20-C-002 **ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMOVAL ACTIONS**

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WHEREAS, on January 10, 2018, the United States Environmental Protection Agency (EPA) issued to Wolverine World Wide, Inc. (Respondent or Wolverine) a Unilateral Administrative Order (UAO) under Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(a), requiring Wolverine to complete certain removal actions at a former tannery property Wolverine owns and formerly operated at 123 Main Street in the City of Rockford, Michigan and at a former disposal area Wolverine owns and formerly operated at 1855 House Street in Plainfield Township, Kent County, Michigan (collectively, the Wolverine Tannery and House Street Disposal Site, or "Site");

WHEREAS, also on or about January 10, 2018, the State of Michigan commenced a civil action in the United States District Court for the Western District of Michigan against Wolverine, alleging claims under Section 7002(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6972(a), and Part 201, Environmental Remediation, of the Michigan Natural Resource and Environmental Protection Act (NREPA) (Part 201), Mich. Comp. Laws § 324.20101 *et seq.*, and seeking an injunction requiring that, among other things, Wolverine undertake such actions as are necessary to abate an alleged imminent and substantial endangerment to human health and the environment posed by the disposal of wastes containing certain per- and polyfluoroalkyl substances (PFAS) in certain areas in Kent County, Michigan, including the geographic areas that are the subject of this Administrative Settlement Agreement and Order on Consent;

WHEREAS, this Administrative Settlement Agreement and Order on Consent and the EPA UAO address the release and threatened release of CERCLA hazardous substances, and pollutants and contaminants at the Site, including PFAS commingled with hazardous substances, but does not purport to select a final CERCLA response action for the Site;

WHEREAS, on April 29, 2019, EPA issued a letter to Wolverine under the UAO requiring Wolverine to, among other things, submit and, upon approval, implement a workplan for a time-critical removal action under Section 106 of CERCLA at the Site;

WHEREAS, Wolverine has undertaken actions to, among other things, identify and characterize contamination at the Site and comply with the UAO, including submitting reports and workplans to EPA, and EPA has identified activities for Wolverine to undertake under EPA's oversight as a time-critical removal action at the Site; and

WHEREAS, the EPA and Wolverine intend that Wolverine undertake the work required under the UAO under an Administrative Settlement Agreement and Order on Consent that is not intended to bar the State of Michigan's civil action referenced above.

NOW THEREFORE:

I. JURISDICTION AND GENERAL PROVISIONS

1. EPA and Respondent enter into this Administrative Settlement Agreement and Order on Consent (Settlement) voluntarily. This Settlement provides for Respondent's

performance of a time-critical removal action and payment of certain response costs the United States incurs at, or in connection with, the Site. This Settlement supersedes the UAO.

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 Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A, 14-14-C and 14-14-D.

3. EPA has notified the State of Michigan (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 Respondent undertakes 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 this Settlement's basis, validity or terms.

II. PARTIES BOUND

5. This Settlement is binding upon EPA and upon Respondent and its successors and assigns. Any change in Respondent's ownership or corporate status including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Settlement.

6. The 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 provide a copy of this Settlement to each contractor hired to perform the Work this Settlement requires and to each person representing Respondent with respect to the Site or, the Work, and shall condition all contracts entered into hereunder upon performance of the Work in conformity with this Settlement. Respondent or its contractors shall provide written notice of the Settlement to all subcontractors hired to perform any portion of the Work this Settlement requires. Respondent shall nonetheless 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:

"Action Memorandum" shall mean the EPA Action Memorandum relating to the Site signed on January 10, 2018, by the Director, Superfund Division, Region 5, and all attachments thereto. The Action Memorandum is attached in redacted form as Appendix A.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.

"Day" shall mean a calendar day unless otherwise specified. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

"Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXX (Effective Date).

"EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

"Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing deliverables submitted pursuant to this Settlement, in overseeing implementation of the Work, or otherwise implementing, overseeing, 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 68 (Work Takeover), Paragraph 91 (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. Future Response Costs shall also include Agency for Toxic Substances and Disease Registry (ATSDR) costs regarding the Site.

"Interest" shall mean interest at the rate specified for interest on investments of the U.S. 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.

"EGLE" shall mean the Michigan Department of Environment, Great Lakes and Energy, and any successor departments or agencies of the State.

"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 Agreement 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(l) and 300.5 of the NCP and "Policy on Management of Post-Removal Site Control" (OSWER Directive No. 9360.2-02, Dec. 3, 1990).

"RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

"Respondent" shall mean Wolverine World Wide, Inc. or "Wolverine."

"Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

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

"Site" shall mean the "Wolverine Tannery and House Street Disposal Site," which consists of, collectively, the former Wolverine Tannery at 123 Main Street, Rockford, Michigan (the "Tannery Property"), and the former Wolverine disposal area at 1855 House Street, Belmont Township, Kent County, Michigan (the "House Street Disposal Area"), unless the context indicates that only one or the other of these two areas is intended.

"State" shall mean the State of Michigan.

"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 1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any "pollutant or contaminant" under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); 3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and 4) any "hazardous substance" under § 20101(1)(x) of Part 201 of the

Michigan Natural Resource and Environmental Protection Act, Act 451 of 1994, § 324.20101 et seq.

"Work" shall mean all activities and obligations Respondent is required to perform under this Settlement Agreement, 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 incorporates by reference the findings of fact in Section IV of the UAO as if they were fully set out herein, and in addition, finds as follows:

a. In 2018, in response to the UAO, Wolverine conducted investigation work at the Tannery Property, this included sampling activities at the Tannery Property and adjacent areas including along the White Pine Trail and within the Rogue River. Sampling Activities (including QA/QC field duplicates) at and adjacent to the Tannery Property included: collecting 91 sediment samples from 33 sediment cores along 10 transects in the Rogue River; collecting 224 soil samples from 113 soil boring locations; installing 9 new groundwater monitoring wells; collecting 118 groundwater samples from 456 groundwater monitoring locations; collecting 16 surface water samples from 7 locations in the Rogue River and Rum Creek; and collecting 22 soil gas samples from 10 soil gas locations.

b. The 2018 Tannery Property investigation data results showed numerous hazardous substances are present, including volatile organic compounds (VOCs)/volatile organic analytes (VOAs), metals, semivolatile organic compounds (SVOCs)/semivolatile organic analytes (SVOAs), and inorganic chemicals (listed per 40 CFR Part 302) detected in soil, sediments, groundwater, and surface water above State and Federal criteria. The data Wolverine collected (to the exclusion of EPA split sample data) shows the following:

(1) Michigan Part 201 Residential Direct Contact Criteria ("RDCC") exceedances in deep (>3 ft below ground surface ("bgs")) soil samples include (with maximum concentration noted): Arsenic (63 mg/kg); Benzo(a)anthracene (96 mg/kg); Benzo(a)pyrene (82 mg/kg); Benzo(b) fluoranthene (110 mg/kg); Chloride (soluble) (1,700 mg/kg); Indeno(1,2,3-c,d) pyrene (29 mg/kg): Lead (790 mg/kg);

(2) Michigan Part 201 RDCC exceedances in surficial (≤3 ft bgs) soil samples include (with maximum concentration noted): Arsenic (41 mg/kg); Benzo(a)anthracene (83 mg/kg); Benzo(a)anthracene (83 mg/kg); Benzo(a)pyrene (65 mg/kg); Benzo(b)fluoranthene (83 mg/kg); Chloride (soluble)(2700 mg/kg); Lead (11,000 mg/kg); Mercury (180 mg/kg);

(3) Michigan Part 201 Groundwater Surface Water Interface Protection Criteria ("GSIPC") exceedances in deep (>3 ft bgs) soil samples

include (with maximum concentrations noted): 1,1,1,-Trichlorethane (8 mg/kg); 1,1,2-Trichloroethane (0.25 mg/kg); 1,2 Dichloroethane (0.17 mg/kg); 2-Methylnaphthalene (13 mg/kg); Acenaphthene (51 mg/kg); Ammonia - Unionized (850 mg/kg); Antimony (7.6 mg/kg); Arsenic (63 mg/kg); bis(2-chlroethyl)ether (0.28 mg/kg); Boron (150 mg/kg); Cadmium (11 mg/kg); Carbazole (34 mg/kg); Chloride (soluble)(1,700 mg/kg); Cobalt (47 mg/kg); Copper (330 mg/kg); Cyanide (total) (3.6 mg/kg); Dibenzofuran (55 mg/kg); Fluoranthene (290 mg/kg); Fluorene (83mg/kg); Hexavalent Chromium (54 mg/kg); Mercury (20 mg/kg); Molybdenum (12 mg/kg); Naphthalene (55 mg/kg); Phenanthrene (320 mg/kg); Phosphorous (1,000 mg/kg); Selenium (7 mg/kg); Silver (3.2 mg/kg); Zinc (6,500 mg/kg);

(4) Michigan Part 201 GSIPC exceedances in surficial ($\leq$ 3 ft bgs) soil samples include (with maximum concentration noted): 1,1,1,-Trichlorethane (5.1 mg/kg); 1,1,2,2-Tetrachloroethane (0.084 mg/kg); 2-Methylnaphthalene (9.9 mg/kg); Acenaphthene (23 mg/kg); Ammonia - Unionized (640 mg/kg); Antimony (17 mg/kg); Arsenic (41 mg/kg); Barium (1200 mg/kg); Benzene (0.55 mg/kg); Cadmium (4.9 mg/kg); Carbazole (30 mg/kg); Chloride (soluble) (2,700 mg/kg); Cobalt (19 mg/kg); Copper (550 mg/kg); Cyanide (total)(2.5 mg/kg); Dibenzofuran (16 mg/kg); Ethylbenzene (0.99 mg/kg); Fluoranthene (170 mg/kg); Fluorene (24 mg/kg); Hexavalent Chromium (91 mg/kg); Lead (11,000 mg/kg); Mercury (180 mg/kg); Molybdenum (6 mg/kg); Napthalene (26 mg/kg); Phenanthrene (170 mg/kg); Phosphorous (860 mg/kg); Selenium (2.5 mg/kg); Silver (1.5 mg/kg); Tetrachloroethylene (0.51 mg/kg); Trichloroethylene (1.0 mg/kg); Xylenes (total) (3.6 mg/kg); Zinc (5,000 mg/kg);

(5) EPA Residential Soil Regional Removal Management Levels ("RML") exceedances in deep (>3 ft bgs) soil samples include (with maximum concentration noted): Benzo(a)pyrene (82 mg/kg); Benzo(b)fluoranthene (110 mg/kg); Hexavalent Chromium (54 mg/kg); Iron (120,000 mg/kg); Lead (790 mg/kg);

(6) EPA Residential Soil RML exceedances in surficial ($\leq$ 3 ft bgs) soil samples include (with maximum concentration noted): Benzo(a)pyrene (65 mg/kg); Hexavalent Chromium (91 mg/kg); Iron (69,000 mg/kg); Lead (11,000 mg/kg); Mercury (180 mg/kg);

(7) RCRA Maximum Concentration for Toxicity Characteristic exceedances in deep and surficial TCLP soil samples include (with maximum concentration noted): Chromium (18,000 ug/L); Lead (14,000 ug/L);

(8) The following hazardous substances that have been identified in soil and groundwater in excess of applicable criteria at and adjacent to the Tannery property were detected in sediment samples (with maximum concentration noted): Ammonia - Unionized (370 mg/kg); Chloride (soluble) (2,000 mg/kg); Cyanide (total)(17 mg/kg); Nitrate-Nitrate + Ammonia (N)

(370.38 mg/kg); Phosphorous (1,000 mg/kg); Naphthalene (1.0 mg/kg); Phenanthrene (2.6 mg/kg); Arsenic (100 mg/kg); Cobalt (6.3 mg/kg); Hexavalent Chromium (8.1 mg/kg); Mercury (30 mg/kg); Selenium (2.9 mg/kg); Silver (0.25 mg/kg); Zinc (460 mg/kg);

(9) Michigan Part 201 Groundwater Surface Water Interface Criteria ("GSIC") exceedances in groundwater samples collected from permanent monitoring wells include (with maximum concentrations noted): Acetic Acid (28,000 ug/L); Ammonia – Unionized (2,000,000 ug/L); Chloride (9,700,000 ug/L); Cyanide – Total (13 ug/L); Phosphorus (3,600 ug/L); Vinyl Chloride (4.9 ug/L); Phenanthrene (2.4 ug/L); Antimony (3.3 ug/L); Arsenic (140 ug/L); Cadmium (4.7 ug/L); Trivalent Chromium (5,000 ug/L); Hexavalent chromium (40 ug/L); Copper (40 ug/L); Mercury (0.29 ug/L); Vanadium (94 ug/L); Zinc (1,300 ug/L);

(10) Michigan Part 201 GSIC exceedances in surface water samples collected from the Rogue River and Rum Creek include (with maximum concentrations noted): Ammonia – Unionized (410 ug/L).

c. In 2018, in response to the UAO, Wolverine conducted investigation work at the House Street Disposal Area, including sampling activities at and adjacent to that Area. Sampling activities at and adjacent to the House Street Disposal Area property include: advancing 229 soil borings for screening purpose (no samples were collected); collecting 999 soil samples from 447 soil boring locations; collecting 43 groundwater samples from 22 permanent groundwater monitoring wells; collecting 81 perched groundwater samples from 54 temporary monitoring well locations; collecting one surface water sample from a vernal pond on the property; and collecting 93 soil gas samples from 13 soil gas well locations with 44 discrete depth intervals.

d. The 2018 House Street Disposal Area investigation data results showed that numerous hazardous substances are present, including volatile organic compounds (VOCs)/volatile organic analytes (VOAs), metals, semivolatile organic compounds (SVOCs)/semivolatile organic analytes (SVOAs), and inorganic chemicals (listed per 40 CFR Part 302) detected in soil, groundwater, and surface water above State and Federal criteria. The data Wolverine collected (to the exclusion of EPA split sample data) shows the following:

(1) Michigan Part 201 Residential Contact Criteria ("RDCC") exceedances in deep (>3 ft below ground surface ("bgs")) soil samples include (with maximum concentration noted): Arsenic (42 mg/kg); Benzo(a)pyrene (8.9 mg/kg); Lead (460 mg/kg);

(2) Part 201 RDCC exceedances in surficial ($\leq$ 3 ft bgs) soil samples include (with maximum concentration noted): Arsenic (13 mg/kg); Vanadium (1,100 mg/kg);

(3) Part 201 Groundwater Surface Water Interface Protection Criteria ("GSIPC") exceedances in deep (>3 ft bgs) soil samples include (with maximum concentration noted): 1,1,1-Trichlorethane (1700 mg/kg); 1,1,2-Trichloroethane (2.4 mg/kg); 1,1-Dichloroethane (190 mg/kg); 1,1 Dichloroethylene (3.5 mg/kg); 1,2,4-Trimethylbenzene (5.3 mg/kg); 1,2-Dichlorobenzene (120 mg/kg); 1,4-Dichlorobenzene (66 mg/kg); 2-Methylnaphthalene (11 mg/kg); Acetic Acid (900 mg/kg); Ammonia - Unionized (2,100 mg/kg); Antimony (22 mg/kg); Arsenic (42 mg/kg); Boron (490 mg/kg); Carbazole (2.7 mg/kg); Chlorobenzene (140 mg/kg); Cobalt (14 mg/kg); Copper (390 mg/kg); Cyanide (total) (2.6 mg/kg); Dibenzofuran (1.7 mg/kg); Ethylbenzene (3.8 mg/kg); Fluoranthene (24 mg/kg); Hexavalent Chromium (69 mg/kg); Isopropylbenzene (3.6 mg/kg); Mercury (13 mg/kg); Molybdenum (7.5 mg/kg); Napthalene (20 mg/kg); Nitrobenzene (1.4 mg/kg); Phenanthrene (23 mg/kg); Phenol (20 mg/kg); Phosphorous (3000 mg/kg); Selenium (1.8 mg/kg); Silver (.44 mg/kg); Toluene (180 mg/kg); Trichloroethylene (2.9 mg/kg); Xylenes (total) (33 mg/kg); Zinc (6,300 mg/kg);

(4) Michigan Part 201 GSIPC exceedances in surficial (≤ 3 ft bgs) soil samples include (with maximum concentration noted): 1,2-Dichlorobenzene (0.41 mg/kg); 1,4-Dichlorobenzene (0.4 mg/kg); Ammonia - Unionized (51 mg/kg); Antimony (3.8 mg/kg); Arsenic (13 mg/kg); Cadmium (3.3 mg/kg); Chlorobenzene (0.75 mg/kg); Cobalt (17 mg/kg); Copper (220 mg/kg); Cyanide (total) (1.8 mg/kg); Hexavalent Chromium (56 mg/kg); Mercury (2.3 mg/kg); Molybdenum (3.5 mg/kg); Phosphorous (5,200 mg/kg); Selenium (1.3 mg/kg); Silver (7.5 mg/kg); Vanadium (1,100 mg/kg); Zinc (6,300 mg/kg);

(5) EPA Residential Soil Regional Removal Management Levels ("RML") exceedances in deep (>3 ft bgs) soil samples include (with maximum concentration noted): Hexavalent Chromium (69 mg/kg); Lead (460 mg/kg);

(6) EPA Residential Soil RML exceedances in surficial (≤ 3 ft bgs) soil samples include (with maximum concentration noted): Hexavalent Chromium (56 mg/kg);

(7) RCRA Maximum Concentration for Toxicity Characteristic exceedances in deep and surficial TCLP soil samples include (with maximum concentration noted): Chromium (18,000 ug/L);

(8) Michigan Part 201 Groundwater Surface Water Interface Criteria ("GSIC") exceedances in perched groundwater samples collected from temporary monitoring wells include (with maximum concentrations noted): Ammonia - Unionized (92,000 ug/L); Chloride (190,000 ug/L); Phosphorous (1,300 ug/L); 1,2-Dichlorobenzene (19 ug/L); 1,4-Dichlorobenzene (26 ug/L); Chlorobenzene (1,100 ug/L); Arsenic (82 ug/L); Barium (2,800 ug/L); Beryllium (28 ug/L); Cadmium (33 ug/L); Trivalent Chromium (150,000 ug/L); Hexavalent chromium (88 ug/L); Cobalt (300 ug/L); Copper (2,200 ug/L); Lead (1,000 ug/L); Mercury

(25 ug/L); Molybdenum (290 ug/L); Nickel (910 ug/L); Selenium (17 ug/L); Silver (1.5 ug/L); Thallium (3.0 ug/L); Vanadium (150 ug/L); Zinc (4,100 ug/L);

(9) Michigan Part 201 Groundwater Surface Water Interface Criteria ("GSIC") exceedances in groundwater samples collected from permanent monitoring wells include (with maximum concentrations noted): Acetic Acid (29,000 ug/L); Ammonia – Unionized (570 ug/L); Chloride (440,000 ug/L): Mercury (0.25 ug/L);

(10) Michigan Part 201 Residential Drinking Water Criteria ("DWC") exceedances in groundwater samples collected from permanent monitoring wells include (with maximum concentrations noted): Acetic Acid (29,000 ug/L); Chloride (440,000 ug/L); Nitrate-Nitrate + Ammonia (N) (15,000, ug/L); Sulfate (290,000 ug/L); Aluminum (590 ug/L); Iron (3,100 ug/L);

(11) EPA Residential Tap Water RML exceedances in groundwater samples collected from permanent monitoring wells include (with maximum concentrations noted): Acetic Acid (29,000 ug/L);

(12) Michigan Part 201 GSIC exceedances in the surface water sample collected from the vernal pond on the property include (with maximum concentrations noted): Ammonia – Unionized (1,200 ug/L).

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 Tannery Property and House Street Disposal Area portions of the Site are 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. 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) because:

(1) Respondent is the "owner" and/or "operator" of the two facilities, 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); and

(2) Respondent was the "owner" and/or "operator" of the two facilities at the time of disposal of hazardous substances at the two facilities, 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 two facilities as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

f. EPA determined in an Action Memorandum dated January 10, 2018, that the conditions at the Site and 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 5 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) 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 Mark Westra as its Project Coordinator, who shall be responsible for administration of all actions by Respondent that this Settlement requires. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work.

14. EPA has designated Jeffrey Kimble of the Emergency Response Branch 2, 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 5 days before such a change is made. The initial notification by Respondent may be made orally, but shall be promptly followed by a written notice. EPA retains the authority to disapprove of a newly designated Project Coordinator who does not meet the requirements of Paragraph 12. If EPA disapproves of the newly designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, title, contact information, and qualifications within 10 days following EPA's disapproval. Notice or communication relating to this Settlement from EPA to Respondent's Project Coordinator shall constitute notice or communication to Respondent.

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 Action Memorandum and the following items. The actions to be implemented generally include, but are not limited to, the following:

a. Develop and submit to EPA for approval, in accordance with Paragraph 17 below, a workplan for the Tannery Property and House Street Disposal Area property or, if more feasible, separate workplans for each area, to satisfy the work requirements of the following actions:

(1) Define, excavate, and dispose of the contaminated soils at the two known areas of metals contamination in concentrations exceeding Toxicity Characteristic Leaching Procedure (TCLP) criteria at the Tannery Property. At the five such areas at the House Street Disposal Area, excavate and conduct confirmation sampling, or manage onsite subject to Section 16.a(4), below. Wolverine will dispose of any hazardous waste generated from its work at the Tannery offsite at a facility authorized by law to receive the contaminated

material. If, as this work progresses, Wolverine encounters additional areas of TCLP waste at the Tannery whose contaminant concentrations exceed their constituents' corresponding hazardous waste levels, those areas shall be subject to this removal process as well.

(2) Deliver to EPA, for its prior approval, a map of the areas of contaminated shallow soils (0-3 feet bgs) situated west of the Tannery and adjacent to the paved trail and the Rogue River whose contaminant concentrations exceed EPA RMLs and/or Michigan Part 201 criteria for Direct Contact (residential), or that show visual evidence of Wolverine waste materials' presence. The map must be based on sampling data gathered to date and use an appropriate modeling method. Upon EPA's approval of the map, Wolverine shall excavate, and dispose of off-site the contaminated soils in these areas, and restore these areas using an experienced restoration contractor. Wolverine will dispose of any hazardous waste offsite at a facility authorized by law to receive the contaminated materials.

(3) Deliver to EPA, for its prior approval, a map of the areas of contaminated shallow soils (0-1 foot bgs) on the Tannery Property where contaminant concentrations exceed applicable RML/Part 201 criteria. Upon EPA's approval of the map, Wolverine shall excavate and dispose of off-site at a facility authorized by law the soils identified on the map in these areas, place a textile barrier in the excavated area for demarcation, and record a use restriction, such as an environmental restrictive covenant, covering the affected area. Wolverine will dispose of any hazardous waste offsite. subject to Section 16.a(4), below.

(4) If any TCLP soils are managed onsite at the House Street Disposal Area, Wolverine will provide for appropriate engineering controls (e.g., dust, surface runoff, and infiltration) and comply with applicable or relevant and appropriate requirements.

(5) Dredge sediment, or sheet pile and dig "in the dry", along the near shore areas of the Rogue River and adjacent to the former Tannery property at the official and unofficial access points used by residents, as discussed in section 3.6 of the July 12, 2019, work plan submitted to EPA by Rose & Westra on behalf of Wolverine.

(6) Wolverine has already placed large signage and information kiosks along the White Pine Trail and at Rogue River access points designated by EPA. Wolverine will maintain enough inventory of information in the kiosks at all times and has developed a maintenance strategy to ensure this occurs.

(7) Investigate the property directly adjacent to the west of the House Street Disposal Area property, to determine whether hazardous substances contamination extends onto neighboring property.

(8) Investigate a potential wetland area adjacent to and west of the House Street Disposal Area property to determine whether contamination that may be present in any perched water has migrated downgradient. Sample the perched water and soils on the slope between the waste disposal areas and wetland area.

b. Subject to Section 16.a, implement a work plan for offsite disposal of any hazardous substances or hazardous waste that pose an imminent and substantial endangerment to human health and the environment as determined by the OSC and identified during the Extent of Contamination Survey(s). The work plan shall include specific site controls to prevent accidental releases during removal activities and to eliminate additional off-site migration of hazardous substances.

c. Develop and implement a work plan to (i) determine whether any hazardous substances are migrating offsite via surface run off, air deposition, or groundwater flow in concentrations that exceed State contact or other applicable criteria and (ii) appropriately address, as necessary, any such offsite migration that is found to be occurring; and

d. Develop and implement an air monitoring plan for use during cleanup activities for protection of workers and the public. This plan shall consider the hazards that may be encountered during cleanup and at a minimum shall monitor for volatile organic compounds and particulates.

e. Ensure that all hazardous substances, pollutants or contaminants sent-off site are treated, stored, and/or disposed of in accordance with the EPA Off-Site Rule (40 C.F.R. § 300.440).

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.

17. **Work Plan and Implementation**

a. Within 30 days after the Effective Date, in accordance with Paragraph 18 (Submission of Deliverables), Respondent shall submit to EPA for approval a draft work plan for performing the removal action (the "Work Plan") generally described in Paragraph 16 above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement. If necessary, Workplans generated under the UAO shall be modified to reflect provisions included in this Settlement.

b. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan in whole or in part. If EPA requires revisions, Respondent shall submit a

revised draft Work Plan within 30 days after receipt of EPA's notification of the required revisions. Respondent shall implement the Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the 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 Work Plan Respondent shall commence implementation of the Work in accordance with the schedule included therein. Respondent 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 Work Plan shall be reviewed and approved by EPA in accordance with this Paragraph.

18. **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 Jeffrey Kimble, On-Scene Coordinator, U.S. Environmental Protection Agency, Region 5, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Kimble.Jeffrey@epa.gov, 734-692-7688. Respondent shall submit all deliverables required by this Settlement or any approved work plan to EPA in accordance with the schedule set forth in such plan.

(2) Respondent shall submit all deliverables in electronic form. Technical specifications for sampling and monitoring data and spatial data are addressed in Paragraph 18.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.

19. **Health and Safety Plan**. Within 10 days after the Effective Date, Respondent shall submit for EPA review and comment an amended plan, revised to reflect the parties have entered this Settlement, 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-O1C (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.epaose.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. Respondent shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

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

a. Respondent 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 15 days after the Effective Date, Respondent shall submit an amended Sampling and Analysis Plan to EPA, revised to reflect this Settlement having superseded the UAO, for review and approval. This plan shall consist of a Field Sampling Plan (FSP) and a Quality Assurance Project Plan (QAPP) that is consistent with the Work Plan, 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. Respondent shall ensure that EPA and State personnel and their authorized representatives are: allowed access at reasonable times to all laboratories Respondent utilizes in implementing this Settlement. In addition, Respondent shall ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPP for quality 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 http://www.epa.gov/irmpoli8/epa-qa-field-activities-procedures. Respondent 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 http://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 (http://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" (http://www3.epa.gov/ttnamtil/airtox.html).

d. However, upon EPA's approval, after a reasonable opportunity for review and comment by the State, Respondent 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. Respondent shall ensure that all laboratories it uses 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. Respondent 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 EPA-approved QAPP.

e. 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.

f. 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.

g. 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 or Sampling and Analysis Plans. 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.

21. **Post-Removal Site Control**. In accordance with the Work Plan schedule, or as otherwise directed by EPA, Respondent shall submit a proposal for Post-Removal Site Control. 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.

22. **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 date of receipt of EPA's approval of the Work Plan until issuance of Notice of Completion of Work pursuant to Section XXVIII, 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.

23. **Final Report**. Within 90 days after completion of all Work required by this Settlement, other than continuing obligations listed in Paragraph 98 (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." 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 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."

24. **Off-Site Shipments**

a. Respondent may ship hazardous substances, pollutants and contaminants from the Site to an off-Site facility only if they comply 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, 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. 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 they comply 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

25. **Agreements Regarding Access and Non-Interference.** Respondent shall, with respect to any property at the Site that Respondent does not own, and any property adjacent to the two areas comprising the Site that Respondent does not own (collectively, third-party property) and to which access is required in order for Respondent to perform the Work this Settlement requires, use best efforts to secure from the owners of such property an agreement, enforceable by Respondent and EPA, providing that such owner shall, with respect to that property: (i) provide the EPA, the State, Respondent, and their representatives, contractors, and subcontractors with access at all reasonable times to such property to conduct any activity regarding the Settlement, including those activities listed in subparagraph a. (Access Requirements); 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. Respondent shall provide a copy of such access agreements to EPA and the State.

a. **Access Requirements**. The following is a list of activities for which access may be required regarding property not in Wolverine's ownership and/or adjacent to the Site:

(1) Monitoring the Work;

(2) Verifying any data or information submitted to the United States or the State;

(3) Conducting investigations regarding contamination at or near the Site;

(4) Obtaining samples;

(5) Assessing the need for, planning, implementing, or monitoring response actions;

(6) Assessing implementation of quality assurance and quality control practices as defined in the approved quality assurance quality control plan as defined in the approved QAPP;

(7) Implementing the Work pursuant to the conditions set forth in Paragraph 68 (Work Takeover);

(8) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondent or its agents, consistent with Section X (Access to Information);

(9) Assessing Respondent's compliance with the Settlement;

(10) Determining whether the third-party property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under the Settlement; and

(11) Implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions regarding the property.

26. **Best Efforts**. As used in this Section, "best efforts" means the efforts that a reasonable person in the position of Respondent would use so as to achieve the goal in a timely manner, including the cost of employing professional assistance and the payment of reasonable sums of money to secure access and/or use restriction agreements, as required by this Section. If Respondent is unable to accomplish what is required through "best efforts" in a timely manner, it shall notify EPA, and include a description of the steps taken to comply with the requirements. If EPA deems it appropriate, it may assist Respondent, or take independent action, in obtaining such access and/or use restrictions. All costs EPA incurs in providing such assistance or taking such action, including the cost of attorney time and the amount of monetary consideration or just compensation paid, constitute Future Response Costs to be reimbursed under Section XIV (Payment of Response Costs).

27. If EPA determines in a decision document prepared in accordance with the NCP that institutional controls in the form of state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices are needed, Respondent shall cooperate with EPA's and the State's efforts to secure and ensure compliance with such institutional controls.

28. In the event of any Transfer of the Affected Property, unless EPA otherwise consents in writing, Respondent 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.

29. Notwithstanding any provision of the Settlement, EPA and the State retain all of their access authorities and rights, as well as all of their 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

30. Subject to Paragraphs 31 and 32, Respondent 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 Respondent's 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. Respondent 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.

31. **Privileged and Protected Claims**

a. Respondent 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 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 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 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 has 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 are 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 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 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

34. Until ten (10) years after EPA provides Respondent with notice, pursuant to Section XXVIII (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 their liability under CERCLA with regard to the Site, provided, however, that Respondent must retain, 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, provided, however, that Respondent (and its contractors and agent's) 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.

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 individually 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). 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, Emergency Response Branch, Region 5 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, Emergency Response Branch, Region 5 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 Response Costs.**

a. Periodic Bills. Respondent shall pay to EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondent a bill requiring payment that includes 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 Response Costs), and in accordance with the following procedures:

(1) Respondent shall make all payments 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 C593 and the EPA docket number for this action.

(2) If the amount demanded in the bill is $10,000 or less, Respondent may, in lieu of the procedures in subparagraph 42(a)(1), make all payments this Paragraph requires by official bank check made payable to "EPA Hazardous Substance Superfund." Each check, or a letter accompanying each check, shall identify the name and address of the party(ies) making payment, the Site name, Site/Spill ID Number C593, and the EPA docket number for this action, and shall be sent to:

US Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
PO Box 979076
St. Louis, MO 63197-9000

b. At the time of payment, Respondent shall send notice that payment has been made to Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590 and to Tom Williams, Associate Regional Counsel, 77 West Jackson Boulevard, Mail Code C-14J, Chicago, Illinois, 60604-3590, 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

Such notice shall reference Site/Spill ID Number C593 and the EPA docket number for this action.

c. The total amount to be paid by Respondent pursuant to Paragraph 42.a (Periodic Bills) shall be deposited by EPA in the Wolverine Worldwide Tannery and House Street Disposal Site Special Account 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, provided, however, that EPA may deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund if, at the time the payment is received, EPA estimates that the Wolverine Worldwide Tannery and House Street Disposal Site Special Account balance is sufficient to address currently anticipated future response actions to be conducted or financed by EPA at or in connection with the Site. Any decision by EPA to deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund for this reason shall not be subject to challenge by Respondent pursuant to the dispute resolution provisions of this Settlement or in any other forum.

43. In the event that any payment for Future Response Costs is not made by the date required, Respondent shall pay Interest on the unpaid balance. The Interest on Future Response 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 Response Costs**. Respondent may initiate the procedures of Section XV (Dispute Resolution) regarding payment of any Future Response Costs billed under Paragraph 42 (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, 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 Response 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 Response 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 Response Costs. Respondent 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, 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 Response 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 Response 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 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 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 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 exercises "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.

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 their 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 15 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 57, 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, Financial Assurance, Major Deliverables, and Other Milestones**

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Paragraph 55.b:

Penalty Per Violation Per Day	Period of Noncompliance
$500	1st through 14th day
$1,250	15th through 30th day
$5,000	31st day and beyond

b. **Obligations**

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

(2) Implementation of Section VIII (Work To Be Performed);

(3) Establishment and maintenance of financial assurance in accordance with Section XXV (Financial Assurance); and

(4) Establishment of an escrow account to hold any disputed Future Response Costs under Paragraph 44 (Contesting Future Response Costs).

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:

Penalty Per Violation Per Day	Period of Noncompliance
$250	1st through 14th day
$500	15th through 30th day
$1,000	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 $5,000. Stipulated penalties under this Paragraph are in addition to the remedies available to EPA under Paragraphs 68 (Work Takeover) and 91 (Access to Financial Assurance).

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 17 (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 Division Director level or higher, under Paragraph 47 (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.

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 Response 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 Response 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 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.

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. Funding of Work Takeover costs is addressed under Paragraph 91 (Access to Financial Assurance).

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 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; 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 Michigan 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 73 (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. **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 Site 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.

b. **Exceptions to Waiver**

(1) The waiver under this Paragraph 73 shall not apply with respect to any defense, claim, or cause of action that Respondent may have against any person otherwise covered by such waiver if such person asserts a claim or cause of action relating to the Site against such Respondent.

(2) The waiver under Paragraph 73.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 Site 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

74. 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.

75. Except as expressly provided in Paragraph 73 (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.

76. 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

77. Except as provided in Paragraph 73 (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 Site against any person not a Party hereto. Nothing in this Settlement diminishes the right of the United States, pursuant to Section 113(0(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(0(2).

78. 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 Response Costs.

79. 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).

80. 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.

81. 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

82. 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 representatives 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.

83. 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.

84. 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 any one or more of 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

85. No later than 15 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 XXVIII (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 the Wolverine Worldwide Tannery and House Street Disposal, Plainfield Township, Kent County, Michigan, and the EPA docket number for this action.

XXV. FINANCIAL ASSURANCE

86. In order to ensure completion of the Work, Respondent shall secure financial assurance, initially in the amount of $5 Million, 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. Respondent 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;

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 Respondent that it meets the financial test criteria of Paragraph 88, accompanied by a standby funding commitment, which obligates Respondent 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 Respondent or has a "substantial business relationship" (as defined in 40 C.F.R. § 264.141(h)) with Respondent; and (2) can demonstrate to EPA's satisfaction that it meets the financial test criteria of Paragraph 88.

87. Respondent shall, within 30 days after the Effective Date, submit to EPA for its approval the form of Respondent's financial assurance. Within 30 days of receiving such approval, Respondent 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 EPA Region 5 Comptroller Branch at:

Comptroller Branch
Resource Management Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60606

88. If Respondent seeks to provide financial assurance by means of a demonstration or guarantee under Paragraph 86.e or 86.f, it must, within 30 days of the Effective Date:

a. Demonstrate that:

(1) 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

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) 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: (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/.

89. If Respondent provides financial assurance by means of a demonstration or guarantee under Paragraph 86.e or 86.f, it must also:

a. Annually resubmit the documents described in Paragraph 88.b within 90 days after the close of Respondent's or the guarantor's fiscal year;

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

c. Provide to EPA, within 30 days of EPA's request, reports of the financial condition of Respondent or the guarantor in addition to those specified in Paragraph 88.b; EPA may make such a request at any time based on a belief that Respondent or the guarantor may no longer meet the financial test requirements of this Section.

90. Respondent shall diligently monitor the adequacy of the financial assurance. If Respondent becomes 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, Respondent 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 Respondent of such determination. Respondent 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 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 60 days. Respondent shall follow the procedures of Paragraph 92 (Modification of Amount, Form, or Terms of Financial Assurance) in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Respondent's inability to secure financial assurance in accordance with this Section does not excuse performance of any other obligation under this Settlement.

91. **Access to Financial Assurance**

a. If EPA issues a notice of implementation of a Work Takeover under Paragraph 68.b, then, in accordance with any applicable financial assurance mechanism,

EPA is entitled to: (1) the performance of the Work; and/or (2) require that any funds guaranteed be paid in accordance with Paragraph 91.d.

b. If EPA is notified by the issuer of a financial assurance mechanism that it intends to cancel the mechanism, and 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 91.d.

c. If, upon issuance of a notice of implementation of a Work Takeover under Paragraph 68.b, either: (1) EPA is unable for any reason to promptly secure the resources guaranteed under any applicable financial assurance mechanism, whether cash or in kind, to continue and complete the Work; or (2) the financial assurance is a demonstration or guarantee under Paragraph 86.e or 86.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. Respondent shall, within 30 days of such demand, pay the amount demanded as directed by EPA.

d. Any amounts required to be paid under this Paragraph 91 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 Work by another person. If payment is made to EPA, EPA may deposit the payment into the EPA Hazardous Substance Superfund or into the Wolverine Worldwide Tannery and House Street Disposal 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 91 must be reimbursed as Future Response Costs under Section XIV (Payments for Response Costs).

92. **Modification of Amount, Form, or Terms of Financial Assurance.** Respondent 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 in accordance with Paragraph 87, 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 Respondent of its decision to approve or disapprove a requested reduction or change pursuant to this Paragraph. Respondent 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). Respondent 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 Respondent 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, Respondent shall submit to EPA documentation of the reduced, revised, or alternative financial assurance mechanism in accordance with Paragraph 87.

93. **Release, Cancellation, or Discontinuation of Financial Assurance.** Respondent 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 XXVIII (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

94. 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.

95. 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 94.

96. 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.

XXVII. ADDITIONAL REMOVAL ACTION

97. If EPA determines that additional removal actions not included in the 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 17 (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 XXVI (Modification).

XXVIII. NOTICE OF COMPLETION OF WORK

98. 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 Response Costs, and 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 Work Plan if appropriate in order to correct such deficiencies. Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondent to implement the approved modified Work Plan shall be a violation of this Settlement.

XXIX. INTEGRATION/APPENDICES

99. This Settlement and its appendices constitute 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:

a. "Appendix A" is the Action Memorandum.

b. "Appendix B" is the description and/or map of the Site.

XXX. EFFECTIVE DATE

100. This Settlement shall be effective upon electronic receipt by Respondent of a copy of this Settlement Agreement signed by the Director, Superfund and Emergency Management Division, EPA Region 5.

Agreed this 24th day of October, 2019.

For Respondent:

By: _____

Title: Associate General Counsel and Assistant Secretary

IN THE MATTER OF:

Wolverine Worldwide Tannery and House Street Disposal Site
Kent County, Michigan

It is so ORDERED and Agreed this 28th day of October, 2019.

By:

Douglas Ballotti, Director
Superfund and Emergency Management Division
United States Environmental Protection Agency
Region 5