

Attachment to Notice of Lodging

Proposed Consent Decree with Appendices

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

UNITED STATES OF AMERICA and
STATE OF GEORGIA

Plaintiffs,

v.

METAL CONVERSION
TECHNOLOGIES,
LLC; JOHN PATTERSON; and 1 EAST
PORTER STREET, LLC

Defendants.

Case No. 4:16-cv-00168-HLM

CONSENT DECREE

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WHEREAS, the United States of America, on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”) and the State of Georgia (“State”), filed a Complaint asserting claims against Metal Conversion Technologies, LLC (“MCT”) and 1 East Porter Street, LLC (collectively, “Company Settling Defendants”), and against John Patterson, individually (“John Patterson”) (collectively, the Company Settling Defendants and John Patterson are referred to as the “Settling Defendants”) pursuant to Section 3008(a) of the Resource Conservation and Recovery Act, as amended (“RCRA”), 42 U.S.C. § 6928(a), and Section 12-8-24 of the Georgia Comprehensive Solid Waste Management Act (“SWMA”), O.C.G.A. §§ 12-8-24, for violations of the Georgia Hazardous Waste Management Act (“GHWMA”), O.C.G.A. §§ 12-8-60 et seq. [Subtitle C of RCRA, 42 U.S.C. §§ 6921 et seq.], and the SWMA, O.C.G.A. §§ 12-8-20 et seq., and the regulations promulgated pursuant thereto at Ga. Comp. R. & Regs. Chapters 391-3-11 (the Georgia Rules for Hazardous Waste Management) [40 C.F.R. Pts. 124, 260 through 270, and 273] and 391-3-4 (the Georgia Rules for Solid Waste Management).

WHEREAS, such claims relate to alleged violations at 1 East Porter Street, 6 East Porter Street, and 26 Freeman Street, in Cartersville, Georgia, where John Patterson and MCT conducted or conduct operations.

WHEREAS, such claims also relate to alleged releases of contaminants at and around the 6 East Porter Street location as a result of an April 16, 2011 fire that consumed much of the 6 East Porter Street location, as well as to alleged releases and potential releases of contaminants associated with other alleged violations described in Plaintiffs' Complaint, and such releases warrant the Work required herein;

WHEREAS, 1 East Porter Street, LLC, which is owned and operated by John Patterson, is the current owner of the 1 East Porter Street location.

WHEREAS, MCT is a limited liability company organized and existing under the laws of the State of Georgia and licensed to do business in Georgia; 1 East Porter Street, LLC is a limited liability company organized and existing under the laws of the State of Georgia and licensed to do business in Georgia; and John Patterson is the President of MCT and the President of 1 East Porter Street, LLC.

WHEREAS, the Parties, without the necessity of trial or adjudication of any issues of fact or law, and without any admission of liability or of any factual or

legal allegations (except as provided below), consent to entry of this Consent Decree resolving all issues in this action, including all claims for civil penalties and injunctive relief for the violations alleged in the Plaintiffs' Complaint; and

WHEREAS, the Parties agree and the Court finds that this Consent Decree has been negotiated by the Parties in good faith, that the implementation of this Consent Decree will avoid prolonged and complicated litigation, and that this Consent Decree is fair, reasonable and in the public interest.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I. DEFINITIONS

1. Unless otherwise expressly stated, the terms used in this Consent Decree that are defined in RCRA, 42 U.S.C. §§ 6901 et seq., the GHWMA, O.C.G.A. §§ 12-8-60 et seq., or the SWMA, O.C.G.A. §§ 12-8-20 et seq., or in their implementing regulations at 40 C.F.R. Parts 260 through 270, and 273, and Ga. Comp. R. & Regs. Ch. 391-3-11 and 391-3-4, shall have the meanings set forth in such definitions.

2. Whenever the terms listed below are used in this Consent Decree or any attachments hereto, the following definitions shall apply:

“Affected Property” shall mean all real property where the EPA, in consultation with the Georgia Environmental Protection Division (“GAEPD”) determines that access, land, water, or other resource use restrictions and/or institutional controls (“ICs”) are needed to implement the Remedial Measures required by this Consent Decree, including, but not limited to, the following properties in Cartersville, Bartow County, Georgia: (1) 1 East Porter Street, Tax Parcel No. C010-0003-008, comprising approximately 1.465 acres; (2) 6 East Porter Street, Tax Parcel No. C010-0004-001, comprising approximately 2.8 acres; and (3) 26 Freeman Street, Tax Parcel No. C010-003-009, comprising approximately 1.6 acres.

“Company Settling Defendants” shall mean Metal Conversion Technologies, LLC and 1 East Porter Street, LLC.

“Consent Decree” shall mean this Consent Decree and all appendices hereto, and all modifications. In the event of a conflict between this Consent Decree and any appendix, this Consent Decree shall control.

“Day” shall mean a calendar day unless expressly stated to be a working day. “Working Day” shall mean a day other than a Saturday, Sunday or federal holiday. In computing any period of time prescribed or allowed under this Consent Decree or the Statement of Work, the provisions of Rule 6, Federal Rules of Civil Procedure, shall apply, unless otherwise stated.

“Effective Date of this Consent Decree” shall be the date it is entered by the Court.

“Environmental Covenant” shall mean a servitude arising under an environmental response project that imposes activity and use limitations, as set forth in the Georgia Uniform Environmental Covenants Act (“GA UECA”), O.C.G.A. §§ 44-16-1 et seq.

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

“Facility” shall mean, collectively, the MCT locations in Cartersville, Bartow County, Georgia, including 1 East Porter Street, 6 East Porter Street, and 26 Freeman Street. “On-site” shall refer to locations on or inside the Facility boundaries. “Off-site” shall refer to locations outside of the Facility boundaries.

The boundaries of 1 East Porter Street, 6 East Porter Street, and 26 Freeman Street are depicted generally on the map attached as Appendix A.

“Financial Information” shall mean those financial documents identified in Appendix C.

“GAEPD” shall mean the Georgia Environmental Protection Division, a division of the Georgia Department of Natural Resources, and any successor environmental departments or agencies of the State of Georgia.

“Institutional Controls” or “ICs” shall mean Proprietary Controls and state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices that: (a) limit land, water, or other resource use to minimize the potential for human exposure to hazardous waste or hazardous constituents at or in connection with the Facility; (b) limit land, water, or other resource use to implement, ensure non-interference with, or ensure the protectiveness of the Remedial Measures; or (c) provide information intended to modify or guide human behavior at or in connection with the Facility.

“Non-Settling Owner” shall mean any person, other than Settling Defendants, that owns or controls any Affected Property, including the John and Carolyn Waters Trust, Donald L. Evans, and Tilley Holdings LLC. The clause

“Non-Settling Owner’s Affected Property” means Affected Property owned or controlled by any Non-Settling Owner.

“Owner Settling Defendant” shall mean any Settling Defendant that owns or controls any Affected Property, including, but not limited to, 1 East Porter Street, LLC. The clause “Owner Settling Defendant’s Affected Property” means Affected Property owned or controlled by an Owner Settling Defendant.

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

“Parties” shall mean the United States of America, the State of Georgia, MCT, John Patterson, and 1 East Porter Street, LLC.

“Plaintiffs” shall mean the United States of America and the State of Georgia.

“Proprietary Controls” shall mean easements or covenants, including an Environmental Covenant, running with the land that: (a) limit land, water, or other resource use and/or provide access rights; and (b) are created pursuant to common law or statutory law by an instrument that is recorded in the appropriate land records office.

“RCRA § 3013 Order” shall mean the RCRA Administrative Order, Docket No. RCRA-04-2009-4259, dated January 5, 2010, issued to MCT.

“Remedial Measures” shall refer to the obligations of Settling Defendants under Section VII (Work to be Performed) of this Consent Decree.

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

“Settling Defendants” includes “Company Settling Defendants” and shall mean MCT, John Patterson, and 1 East Porter Street, LLC.

“United States” shall mean the United States of America, its agencies, departments, and instrumentalities, including the United States Environmental Protection Agency.

“Work” shall mean all activities any Settling Defendant is required to perform under this Consent Decree, or any appendix or attachment hereto, including, but not limited to, the Statement of Work in Appendix B.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355, and 1367, as well as Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g). Venue is proper in this judicial

district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1395, and 42 U.S.C. § 6928(a). The Complaint states claims upon which the Court can grant relief.

4. Solely for the purposes of this Consent Decree and the underlying Complaint, Settling Defendants waive all objections and defenses that they may have to the jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter, enforce, modify, or terminate this Consent Decree.

III. PARTIES BOUND

5. This Consent Decree is binding upon the United States and the State of Georgia, and upon Settling Defendants and their, agents, heirs, successors, and assigns, as set forth herein. Any change in ownership or corporate or other legal status of any Settling Defendant, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Defendant's responsibilities under this Consent Decree.

6. Each party certifies that its undersigned representative is fully authorized by that party to enter into the terms and conditions of this Consent Decree, to execute it on behalf of that party, and to legally bind the party.

7. Within five (5) days of the Effective Date of this Consent Decree, or at the time a contractor is obtained to perform or monitor any portion of the Work required by this Consent Decree or its appendices or attachments, Settling Defendants (or Company Settling Defendants, as applicable) shall provide to each contractor, and to each person representing such Settling Defendants with respect to the Facility or the Work, a copy of all Sections of this Consent Decree or attachments relevant to that contractor's or representative's employment, and shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Consent Decree and its appendices or attachments. Such Settling Defendants or their contractors shall provide written notice of this Consent Decree to all subcontractors hired to perform any portion of the Work required by this Consent Decree.

8. Notwithstanding any retention of contractors, subcontractors or agents to perform or monitor any Work required under this Consent Decree, Settling Defendants shall be responsible for ensuring that all Work is performed in accordance with the requirements of this Consent Decree. In any action to enforce this Consent Decree or to obtain stipulated penalties hereunder, Settling Defendants shall not assert as a defense the failure of their employees, servants,

agents, assigns, contractors or subcontractors to take actions necessary to comply with this Consent Decree, unless Settling Defendants establish, pursuant to the procedures set forth in Section XV (Dispute Resolution) below, that such failure resulted from a “force majeure” event as defined in Section XVII (Force Majeure) of this Consent Decree.

IV. OBJECTIVES

9. The purposes of the United States, the State of Georgia, and Settling Defendants entering into this Consent Decree are:

- a. to resolve all pending claims as set forth in the underlying Complaint according to the terms and subject to the reservations set forth herein, without admission of fact or liability or the necessity of further litigation;
- b. to assure that Settling Defendants comply with the applicable requirements of RCRA and the GHWMA, and all applicable implementing regulations under the foregoing statutes;
- c. to assure that Settling Defendants comply with the requirements of the RCRA § 3013 Order and perform any Remedial Measures, including

implementing Proprietary Controls, necessary at the Facility or off-Site to ensure the protection of human health and the environment;

d. to assure that Settling Defendants comply with the applicable requirements of the SWMA, and all applicable implementing regulations under the SWMA; and

e. to provide for the payment of a civil penalty by Settling Defendants, reduced in consideration of each entity's demonstration of a limited ability to pay.

V. GENERAL PROVISIONS

10. Compliance with Applicable Laws. All activities undertaken by Settling Defendants pursuant to this Consent Decree shall be performed in accordance with the requirements of all applicable federal, state, and local laws and regulations, or permits, including, without limitation, all federal and state laws governing the management, storage, treatment or disposal of all solid, hazardous, and universal wastes. Upon entry of this Consent Decree, Settling Defendants shall conduct ongoing operations, if any, at the Facility in compliance with all applicable provisions of the solid, hazardous, and universal waste management programs for the State of Georgia as set forth in the GHWMA and SWMA, and

their implementing regulations, as well as all applicable federal provisions of RCRA and its implementing regulations, and the provisions of this Consent Decree.

11. Permits. If any portion of the Work or ongoing operations, if any, at the Facility requires a federal, state, or local permit or approval, Settling Defendants (or Company Settling Defendants, as applicable) shall submit timely and complete applications, shall take all other actions required by law to obtain such permits or approvals, and shall use best efforts to take all other actions necessary to obtain all such permits or approvals. Settling Defendants (or Company Settling Defendants, as applicable) may seek relief under the provisions of Section XVII (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 referenced in this Paragraph and 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.

12. If, prior to the termination of this Consent Decree pursuant to Section XXVI (Termination), any Settling Defendant operates the furnace formerly operated at 1 East Porter Street, Cartersville, Georgia, an induction furnace, or any

kind of similar furnace for the processing of batteries, such Settling Defendants shall provide notice to the EPA and the State pursuant to Section XXV (Notices and Submissions) no later than ninety (90) days in advance of beginning operation of the furnace. This requirement is independent of any other notification or permitting requirement that may be required under applicable federal, state, or local law.

13. This Consent Decree is not, and shall not be construed to be, a permit issued pursuant to any federal, state, or local statute or regulation.

VI. CIVIL PENALTY

14. The United States has reviewed the Financial Information submitted by Settling Defendants to determine whether they have an inability or limited ability to pay a civil penalty, taking into consideration the ability of such parties to pay a civil penalty and still maintain their basic business operations, including their overall financial condition and demonstrable constraints on their ability to raise revenues.

15. Each Settling Defendant certifies individually that the Financial Information that it has submitted fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed

between the time the Financial Information was submitted to the United States and the time each Settling Defendant executes this Consent Decree.

16. Settling Defendants shall collectively pay a civil penalty in the amount of \$12,500 to the United States in settlement of the claims specifically set forth in the Complaint in this matter.

17. Payment of this civil penalty shall be made by EFT or wire transfer to the U.S. Department of Justice within thirty (30) days of the Effective Date of this Consent Decree, referencing DOJ file number 90-7-1-10141, in accordance with instructions to be provided by the Financial Litigation Unit of the U.S. Attorney's Office for the Northern District of Georgia to Settling Defendants. Notice that such payment has been made shall be sent on the same day by electronic mail to: acctsreceivable.CINWD@epa.gov; and by U.S. mail to: (1) EPA Region 4, RCR Division, Chief, Enforcement and Compliance Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303; and (2) the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 (re: DOJ File No. 90-7-1-10141). The notice shall reference the USAO Number listed above, the case name, court, and docket number.

18. Settling Defendants shall collectively pay a civil penalty in the amount of \$12,500 to GAEPD in settlement of the matters addressed in this Consent Decree. Payment to GAEPD shall be made within thirty (30) days of the Effective Date of this Consent Decree and shall be made by a cashier's check or money order sent to:

Director's Office
Judson H. Turner, Director
2 Martin Luther King Jr. Drive, SE
Suite 1456 East, Floyd Tower
Atlanta, GA 30334-9000

The instrument shall be made payable to the Georgia Department of Natural Resources. The transmittal letter shall state that the payment is for a civil penalty owed pursuant to the Consent Decree in *United States v. Metal Conversion Technologies, LLC, et al.* and shall reference the court and docket number.

19. This Consent Decree shall be considered an enforceable judgment for the purposes of post-judgment collection in accordance with Rule 69 of the Federal Rules of Civil Procedure and the Federal Debt Collection Procedures Act ("FDCPA"), 28 U.S.C. §§ 3001 et seq. All payments required under this Consent Decree shall be considered a debt under the FDCPA.

20. The civil penalty and stipulated penalties provided for in this Consent Decree are penalties within the meaning of 26 U.S.C. § 162(f), and are not tax deductible expenditures for purposes of federal law.

VII. WORK TO BE PERFORMED

21. Settling Defendants (or Company Settling Defendants, as applicable) shall perform all actions necessary to implement the Statement of Work (“SOW”) set forth in Appendix B. The actions to be implemented as set forth in the SOW include, but are not limited to, the following: (1) development and implementation of a soil sampling and analysis plan for on- and off-site soils; (2) development and implementation of a groundwater sampling and analysis plan, as necessary; (3) soil removal as necessary to achieve cleanup levels, including any necessary air monitoring; (4) implementation of Proprietary Controls, including an Environmental Covenant, as necessary; and (5) groundwater remediation, as necessary.

a. Phasing. Such actions shall be conducted in phases as outlined in Sections I and II.F. of the SOW.

b. Division of Work Obligations. Settling Defendants shall be responsible for implementing Phase 1 (horizontal and vertical contaminant

delineation of on- and off-site soils) and Phase 2B (soil removal on-site). In addition to their obligations to implement Phases 1 and 2B, Company Settling Defendants shall also be responsible for implementing Phase 2A (soil removal off-site), Phase 3 (groundwater sampling and analysis) and Phase 4 (groundwater monitoring and/or remediation).

22. The EPA and GAEPD acknowledge that certain sampling and analysis has already been performed at the Facility pursuant to the RCRA § 3013 Order. The remaining monitoring, assessment, analysis and reporting requirements of the RCRA § 3013 Order are hereby expressly incorporated by reference into this Consent Decree, and the RCRA § 3013 Order is therefore superseded by this Consent Decree.

23. Work Plans. Work Plans shall be submitted to the EPA and GAEPD for each phase of the Work in accordance with the schedule set forth in Section II.F. of the SOW. Each Work Plan shall include a detailed schedule for all Work to be performed in that phase and a Project Management Plan, which shall include a description of how the Work will be managed and which shall list the names and qualifications of all project personnel.

24. No Settling Defendant shall commence any Work except in conformance with the terms of this Consent Decree and any approved Work Plan. Each Work Plan, schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Consent Decree.

25. Implementation of each Work Plan shall be commenced within fourteen (14) days of approval of such Work Plan in accordance with Paragraph 36 below, unless an alternate date is specified in the applicable Work Plan, in which case, such alternate date shall control. Settling Defendants shall perform all Work in accordance with the schedule contained in each approved Work Plan.

26. Health and Safety. The Work to be performed under this Consent Decree shall be conducted in accordance with the EPA's "Standard Operating Safety Guides" (PUB 9285.1-03, PB 92-963414, June 1992) and currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910.

27. Community Engagement. At the request of the EPA, in consultation with GAEPD, Company Settling Defendants shall assist in providing outreach and/or notice to local residents and the community regarding the Work to be performed at the Facility.

VIII. DESIGNATION OF CONTRACTOR AND PROJECT COORDINATORS

28. Contractors and Subcontractors. Settling Defendants shall retain one or more contractors to perform the Work and shall notify the EPA and GAEPD of the name(s) and qualifications of such contractor(s) within fourteen (14) days after the lodging of this Consent Decree. Settling Defendants (or Company Settling Defendants, as applicable) shall also notify the EPA and GAEPD of the name(s) and qualification(s) of any other contractor(s) and subcontractor(s) retained to perform any phase of the Work at least fourteen (14) days prior to commencement of such Work. All aspects of the Work to be performed pursuant to Section VII (Work to be Performed) shall be under the direction and supervision of personnel with demonstrated expertise in hazardous waste site investigation and remediation. The EPA, in consultation with GAEPD, retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Settling Defendants (or Company Settling Defendants, as applicable). If the EPA disapproves of a selected contractor, Settling Defendants (or Company Settling Defendants, as applicable) shall retain a different contractor and shall notify the EPA and GAEPD of that contractor's name and qualifications within thirty (30)

days after receipt of the EPA's written explanation for its disapproval. Such replacement contractor shall also be subject to review and approval or disapproval by the EPA, in consultation with GAEPD.

29. The proposed contractor(s) must demonstrate compliance with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by the EPA and GAEPD. Where a license is required, only licensed individuals shall be used to perform any Work required by this Consent Decree.

30. Settling Defendants (or Company Settling Defendants, as applicable) may change their contractors or subcontractors following the procedures set forth in Paragraph 28. Such Settling Defendants shall provide at least ten (10) days written notice to the EPA and GAEPD prior to proposing to change any contractor or subcontractor.

31. Project Coordinators. Within fourteen (14) days after the lodging of this Consent Decree, Settling Defendants shall designate a Project Coordinator who shall be responsible for administration of all actions by Settling Defendants required by this Consent Decree, and shall submit to the EPA and GAEPD the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present at the Facility or readily available during the Work. The EPA, in consultation with GAEPD, retains the right to disapprove of the designated Project Coordinator. If the EPA disapproves of the designated Project Coordinator, Settling Defendants shall retain a different Project Coordinator and shall notify the EPA and GAEPD of that person's name, address, telephone number, and qualifications within thirty (30) days following receipt of the EPA's written explanation of its disapproval. Such replacement Project Coordinator shall also be subject to approval or disapproval by the EPA, in consultation with GAEPD.

32. The EPA has designated the following as the EPA Project Coordinators:

Parvez Mallick
Enforcement and Compliance Branch, RCR Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW

Atlanta, Georgia 30303
mallick.parvez@epa.gov
404-562-8594

and

Brian Bastek
Corrective Action Section, RCR Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303
bastek.brian@epa.gov
404-562-8511

33. GAEPD has designated the following as its Project Coordinator:

Amy Potter
Unit Coordinator
Hazardous Waste Management Program
Georgia Environmental Protection Division
2 Martin Luther King Jr. Drive, SE
Suite 1054 East, Floyd Tower
Atlanta, GA 30334-9000
Amy.Potter@dnr.state.ga.us
404-656-2833

34. The EPA, GAEPD, and Settling Defendants (or Company Settling Defendants, as applicable) shall have the right, subject to this Paragraph, to change their designated Project Coordinator(s). The EPA and GAEPD shall be notified ten (10) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice. Any change in Settling

Defendants' (or Company Settling Defendants', as applicable) Project Coordinator shall also be subject to review and approval or disapproval by the EPA, in consultation with GAEPD, in accordance with Paragraph 31.

35. Except as otherwise provided in this Consent Decree, all submissions required by this Consent Decree shall be directed to the EPA and GAEPD Project Coordinators in accordance with Section IX (Agency Review and Approval of Document Submittals). The EPA and GAEPD Project Coordinators shall be responsible for overseeing Settling Defendants' implementation of this Consent Decree. The Project Coordinator shall have the authority to halt, conduct, or direct any Work required by this Consent Decree. Absence of the EPA and/or GAEPD Project Coordinators from the Facility shall not be cause for stoppage of Work unless specifically directed by the EPA or GAEPD.

**IX. AGENCY REVIEW AND APPROVAL OF DOCUMENT
SUBMITTALS**

36. As provided for in this Consent Decree, the EPA and GAEPD will review all draft and final Work Plans, reports, schedules, and other documents submitted to the EPA and GAEPD for review and, if required, approval pursuant to this Consent Decree. If approval is required, the EPA, after consultation with GAEPD, shall notify Settling Defendants (or Company Settling Defendants, as applicable) in writing of the agencies' approval, disapproval, or modification of such plans, reports, schedules, or other documents, or any part thereof. In the event of approval of a Work Plan, Settling Defendants (or Company Settling Defendants, as applicable) shall commence implementation of such Work Plan within fourteen (14) days of such approval, unless an alternate date is specified in the applicable Work Plan, in which case, such alternate date shall control. Settling Defendants (or Company Settling Defendants, as applicable) shall complete implementation of each Work Plan in accordance with the schedule set forth in the approved Work Plan. In the event of any disapproval or modification, the EPA's written notice will explain the reasons for the disapproval or modification.

37. Within fourteen (14) days of receipt of the EPA's disapproval of any Work Plan, report, schedule or other document required to be submitted under this

Consent Decree, or within such other time as provided in the disapproval document or this Consent Decree, Settling Defendants (or Company Settling Defendants, as applicable) shall amend and submit a revised Work Plan, report, schedule or other document to the EPA and GAEPD. In the event Settling Defendants (or Company Settling Defendants, as applicable) do not timely amend, revise, or submit a plan addressing and correcting the matters in the disapproved document, or in the event a resubmission is still deficient: (1) Settling Defendants (or Company Settling Defendants, as applicable) shall be subject to stipulated penalties under Section XIV (Failure to Comply with Requirements of Consent Decree) of this Consent Decree; and (2) the EPA, in consultation with GAEPD, may unilaterally modify the Work Plan(s). Subject to the Dispute Resolution procedures of this Consent Decree under Section XV (Dispute Resolution), Settling Defendants (or Company Settling Defendants, as applicable) shall commence implementation of the revised or modified Work Plan(s) within fourteen (14) days of receipt of the EPA's approval or unilateral modification of a Work Plan, unless the specific provision governing implementation of the Work Plan provides for a longer time period, in which case the longer time period shall govern. If Settling Defendants (or Company Settling Defendants, as applicable) fail to implement the modified Work

Plan, such Settling Defendants shall be subject to stipulated penalties under Section XIV (Failure to Comply with Requirements of Consent Decree) of this Consent Decree. A deficient Work Plan that is resubmitted with the same or substantially similar deficiency shall be deemed to have never been submitted for purposes of calculating stipulated penalties. A claim that a resubmission is deficient is subject to the Dispute Resolution procedures of this Consent Decree.

38. One (1) hard copy and one (1) electronic copy of all documents regarding the Work to be performed under this Consent Decree, including work plans, reports, and other correspondence to be submitted pursuant to this Consent Decree, shall be sent to the EPA and GAEPD Project Coordinators identified in Paragraphs 32 and 33, or to any other recipient or address that Settling Defendants (or Company Settling Defendants, as applicable), the EPA, or GAEPD hereafter agree upon in writing.

39. All documents submitted by Settling Defendants (or Company Settling Defendants, as applicable) to the EPA and GAEPD for review and approval or modification pursuant to this Consent Decree shall include the following certification statement:

“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 further certify, to the best of my knowledge and belief, that this document meets the objectives and requirements of the Consent Decree entered among the United States, the State of Georgia, Metal Conversion Technologies, LLC, John Patterson, and 1 East Porter Street, LLC, in connection with the civil action styled *United States of America and State of Georgia v. Metal Conversion Technologies, LLC, John Patterson, and 1 East Porter Street, LLC*, Docket Number _____, in the United States District Court for the Northern District of Georgia. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

X. SAMPLE AND DOCUMENT AVAILABILITY AND QUALITY

40. All sampling undertaken pursuant to this Consent Decree shall be performed in a manner consistent with the EPA's "Field Branches Quality System and Technical Procedures," available at <http://www.epa.gov/region4/sesd/fbqstp/index.html>. The name, address, telephone number, and contact person of each analytical laboratory Settling Defendants (or Company Settling Defendants, as applicable) propose to use must be specified in the applicable Work Plan. Settling Defendants (or Company Settling Defendants, as applicable) shall ensure that laboratories used by Settling Defendants (or Company Settling Defendants, as applicable) for analysis perform such analysis according to the latest approved edition of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), or other methods deemed satisfactory to the EPA and GAEPD. If methods other than EPA or GAEPD methods are to be used, Settling Defendants (or Company Settling Defendants, as applicable) shall specify and submit all such protocols for approval in the applicable Work Plan. The EPA, in consultation with GAEPD, may reject any data that does not meet the requirements of the approved Work Plan, or EPA or GAEPD analytical methods, and may require re-sampling and additional analysis.

41. Settling Defendants (or Company Settling Defendants, as applicable) shall develop a Quality Assurance Project Plan (“QAPP”) for all sampling and analysis conducted under this Consent Decree, and shall submit such QAPP with each Project Management Plan required by Paragraph 23 of this Consent Decree. The QAPP shall be prepared pursuant to the March 2001 “U.S. EPA Requirements for Quality Assurance Project Plans” (EPA QA-R5), available at <http://www.epa.gov/QUALITY/qs0docs/r5-final.pdf>, and the December 2002 EPA “Guidance for Quality Assurance Project Plans” (EPA QA/G-5), available at <http://www.epa.gov/quality/qs-docs/g5-final.pdf>. The applicable Work Plan shall contain quality assurance/quality control (“QA/QC”) and chain of custody procedures for all sampling, monitoring, and analytical activities. Any deviations from the QA/QC and chain of custody procedures in any approved Work Plan must be approved by the EPA, in consultation with GAEPD, prior to implementation; must be documented, including the reasons for the deviations; and must be reported in the applicable report.

42. Settling Defendants (or Company Settling Defendants, as applicable) shall ensure that the laboratories they use for analyses participate in a QA/QC program equivalent to that which is followed by the EPA. The EPA and GAEPD

may conduct a performance and QA/QC audit of each laboratory chosen by Settling Defendants (or Company Settling Defendants, as applicable) before, during, or after sample analyses. Upon request by the EPA, Settling Defendants (or Company Settling Defendants, as applicable) shall have their laboratory perform analyses of samples provided by the EPA or GAEPD to demonstrate laboratory performance. If the audit reveals deficiencies in a laboratory's performance or QA/QC, re-sampling and additional analysis may be required.

43. Data quality objectives shall be developed for each data collection activity to ensure that data of known and appropriate quality are obtained and that data are sufficient to support their intended use(s).

44. Settling Defendants (or Company Settling Defendants, as applicable) shall make available to the EPA and GAEPD the results of all sampling and/or tests or other data generated by or on behalf of such Settling Defendants during implementation of this Consent Decree. Upon request, the EPA and GAEPD will make available to Settling Defendants (or Company Settling Defendants, as applicable) the results of all sampling and/or tests or other data generated by or on behalf of the EPA or GAEPD during implementation of this Consent Decree.

45. Unless otherwise provided for in this Consent Decree, or a Work Plan approved hereunder, or unless otherwise agreed upon by the Parties, Settling Defendants (or Company Settling Defendants, as applicable) shall notify the EPA and GAEPD Project Coordinators identified in Paragraphs 32 and 33 above at least seven (7) days prior to engaging in any field activities undertaken pursuant to implementation of this Consent Decree, such as well drilling, installation of equipment, or sampling. This notification shall be sent by electronic mail to the EPA and GAEPD Project Coordinators as identified in Paragraphs 32 and 33 above. At the request of the EPA or GAEPD, Settling Defendants (or Company Settling Defendants, as applicable) shall provide split samples to the EPA or GAEPD, or allow the EPA or GAEPD, or their authorized representatives, to take samples or split or duplicate samples of any samples collected by, or on behalf of, Settling Defendants (or Company Settling Defendants, as applicable) pursuant to the implementation of this Consent Decree.

XI. FINANCIAL ASSURANCE

46. Settling Defendants (or Company Settling Defendants, as applicable) shall establish and maintain financial assurance in an amount sufficient to cover the costs of each phase of the Work identified in the SOW in Appendix B with no

lapse in coverage between phases, including the cost of all assessment and Remedial Measures required at the Facility or off-site, in the form of a trust fund, surety bond, letter of credit, insurance, or financial test and corporate guarantee, or a combination of these, as set forth in Ga. Comp. R. & Regs. Ch. 391-3-11- .05(1) [40 C.F.R. Part 264, Subpart H]. A cost estimate covering each phase of the Work, as well as a draft financial assurance mechanism, is due with the submission of each Work Plan, except that a draft financial assurance mechanism need not be submitted after the initial submission unless Settling Defendants (or Company Settling Defendants, as applicable) propose to change the mechanism. Revised cost estimates must be submitted with any proposed modifications that would increase the cost estimates, or at least annually, and the financial assurance instrument must be updated accordingly to reflect the increased cost estimate. If the EPA, in consultation with GAEPD, does not agree with any cost estimate, the EPA will notify the Settling Defendants that provided the cost estimate in writing of the determination. Such Settling Defendants shall then have thirty (30) days from the EPA's notification to resubmit additional information or corrected documentation. A claim that a cost estimate, after resubmission of additional information or corrected documentation, is deficient is subject to the Dispute

Resolution procedures of this Consent Decree. All submittals in response to this Paragraph shall be submitted in duplicate to the EPA and GAEPD Project Coordinators identified in Paragraphs 32 and 33 above. Within fourteen (14) days after the EPA's approval of both the estimated cost of the Work, and the form and substance of Settling Defendants' (or Company Settling Defendants', as applicable) financial assurance instrument, such Settling Defendants shall submit all executed or otherwise finalized instruments or other documents to the EPA via certified mail as follows:

Robert Stewart
Enforcement and Compliance Branch, RCR Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

XII. ACCESS AND PROPERTY REQUIREMENTS

47. Owner Settling Defendant agrees to the following with respect to Owner Settling Defendant's Affected Property:
- a. Commencing on the Effective Date of this Consent Decree, Owner Settling Defendant agrees to provide the EPA, GAEPD, and their representatives, including contractors, access at all reasonable times, to enter and move about Owner Settling Defendant's Affected Property for any purpose relating to the implementation, monitoring, or enforcement of this

Consent Decree, including, without limitation: (1) interviewing personnel involved in the field work at the Facility; (2) inspecting records, operating logs, and contracts related to the implementation, monitoring, or enforcement of this Consent Decree; (3) reviewing any Settling Defendant's progress in carrying out the terms of this Consent Decree; (4) conducting such sampling and tests as the EPA or GAEPD or their representatives deem appropriate for implementation, monitoring, or enforcement of this Consent Decree; (5) using a camera, sound recording, or other documentary type equipment to record activities related to the implementation of this Consent Decree; (6) verifying any data or information that any Settling Defendant submits or has submitted to the EPA and GAEPD; and (7) determining whether Owner Settling Defendant's Affected Property is being used in a manner that is prohibited or restricted, or may need to be prohibited or restricted, pursuant to the terms of this Consent Decree.

b. Commencing on the Effective Date of this Consent Decree, Owner Settling Defendant agrees to refrain from using Owner Settling Defendant's Affected Property in any manner that would interfere with or adversely

affect the implementation, integrity, or protectiveness of the Remedial Measures to be performed pursuant to this Consent Decree.

c. If requested by the EPA, in consultation with GAEPD, Owner Settling Defendant shall prepare, execute, and record an Environmental Covenant pursuant to the GA UECA that: (1) grants a right of access for the purpose of conducting any activity related to this Consent Decree, including, but not limited to, those activities listed in Paragraph 47.a, and (2) grants the right to enforce any land/water use restrictions that are determined by the EPA, in consultation with GAEPD, to be necessary at Owner Settling Defendant's Affected Property to ensure the protectiveness of the Remedial Measures to be performed pursuant to this Consent Decree. Such Environmental Covenant shall run with the land, shall have one or more Settling Defendants as the named "Grantee," and shall be enforceable by the EPA, GAEPD, the named Grantee(s), and any other entity identified pursuant to the GA UECA. Within thirty (30) days of the EPA's request for an Environmental Covenant on Owner Settling Defendant's Affected Property, Owner Settling Defendant shall submit to the EPA and GAEPD

for review and approval, with respect to Owner Settling Defendant's

Affected Property:

1. A draft Environmental Covenant prepared in accordance with the GA UECA containing all land/water use restrictions determined by the EPA, in consultation with GAEPD, to be necessary at the Affected Property; and
2. A current title insurance commitment, or some other evidence of title acceptable to the EPA and GAEPD, which shows title to the property described in the Environmental Covenant to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by the EPA, in consultation with GAEPD, or when, despite best efforts, Owner Settling Defendant is unable to obtain a release or subordination of such prior liens or encumbrances to said Environmental Covenant).

Within fourteen (14) days of the EPA's approval and acceptance of the Environmental Covenant and the title evidence, Owner Settling Defendant shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment to affect the title adversely, record the Environmental Covenant with the Clerk of the Superior Court of Bartow County or other appropriate office of Bartow County. Within thirty (30) days of recording the Environmental Covenant, Owner Settling Defendant shall provide the EPA and GAEPD with a final title insurance policy, or other final evidence of title

acceptable to the EPA and GAEPD, and a certified copy of the original recorded Environmental Covenant showing the clerk's recording stamps.

48. To the extent that Work required by this Consent Decree, or access and/or land/water use restrictions are needed, on property which no Settling Defendant currently owns or controls or has access to, including any Non-Settling Owner's Affected Property, Settling Defendants (or Company Settling Defendants, as applicable) shall use best efforts to secure from such Non-Settling Owners:

a. an agreement to provide access thereto for Settling Defendants (or Company Settling Defendants, as applicable), as well as for the EPA and GAEPD, as well as their representatives, including contractors, for any purpose relating to the implementation, monitoring, or enforcement of this Consent Decree, including, but not limited to, those activities listed in Paragraph 47.a of this Consent Decree;

b. an agreement, enforceable by Settling Defendants (or Company Settling Defendants, as applicable), and the EPA and GAEPD, to refrain from using the Affected Property in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the Remedial Measures to be performed pursuant to this Consent Decree; and

c. If requested by the EPA, in consultation with GAEPD, preparation, execution, and recordation of an Environmental Covenant pursuant to the GA UECA that: (1) grants a right of access for the purpose of conducting any activity related to this Consent Decree, including, but not limited to, those activities listed in Paragraph 47.a, and (2) grants the right to enforce any land/water use restrictions that are determined by the EPA, in consultation with GAEPD, to be necessary at any Non-Settling Owner's Affected Property to ensure the protectiveness of the Remedial Measures to be performed pursuant to this Consent Decree. Such Environmental Covenant shall run with the land, shall have one or more Settling Defendants as the named "Grantee," and shall be enforceable by the EPA, GAEPD, the named Grantee(s), and any other entity identified pursuant to the GA UECA. Within thirty (30) days of the EPA's request for an Environmental Covenant on any Non-Settling Owner's Affected Property, Settling Defendants (or Company Settling Defendants, as applicable) shall submit to the EPA and GAEPD for review and approval, with respect to any Non-Settling Owner's Affected Property:

1. A draft Environmental Covenant prepared in accordance with the GA UECA containing all land/water use restrictions determined by

the EPA, in consultation with GAEPD, to be necessary at the Affected Property; and

2. A current title insurance commitment, or some other evidence of title acceptable to the EPA and GAEPD, which shows title to the property described in the Environmental Covenant to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by the EPA, in consultation with GAEPD, or when, despite best efforts, Settling Defendants (or Company Settling Defendants, as applicable) are unable to obtain a release or subordination of such prior liens or encumbrances to said Environmental Covenant).

Within fourteen (14) days of the EPA's approval and acceptance of the Environmental Covenant and the title evidence, Settling Defendants (or Company Settling Defendants, as applicable) shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment to affect the title adversely, record the Environmental Covenant with the Clerk of the Superior Court of Bartow County or other appropriate office of Bartow County.

Within thirty (30) days of recording the Environmental Covenant, Settling Defendants (or Company Settling Defendants, as applicable) shall provide the EPA and GAEPD with a final title insurance policy, or other final evidence of title acceptable to the EPA and GAEPD, and a certified copy of the original recorded Environmental Covenant showing the clerk's recording stamps.

49. Best Efforts. As used in this Section, “best efforts” means the efforts that a reasonable person in the position of Settling Defendants (or Company Settling Defendants, as applicable) and Owner Settling Defendant 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 (for example, to the extent such access results in loss of wages or business or damage to property) to secure access, Propriety Controls, including an Environmental Covenant, agreements, releases, subordinations, modifications, or relocations of prior encumbrances that affect title to the Affected Property, as applicable. If Settling Defendants (or Company Settling Defendants, as applicable) are unable to:

(a) obtain any access or land/water use restriction agreements required by Paragraphs 48.a and 48.b of this Consent Decree in accordance with the schedule set forth in an approved Work Plan; (b) submit an Environmental Covenant required by Paragraph 49.c in draft form within thirty (30) days of the EPA’s request; or (c) are unable to obtain an agreement pursuant to Paragraphs 47.c.2 and 48.c.2 from the holder of a prior lien or encumbrance to release or subordinate such lien or encumbrance to the Environmental Covenant being created pursuant to this Consent Decree within thirty (30) days of the EPA’s request, Settling

Defendants (or Company Settling Defendants, as applicable) shall promptly notify the EPA and GAEPD in writing, and shall include in that notification a summary of the steps that such Settling Defendants have taken to attempt to comply with Paragraphs 47 or 48 of this Consent Decree. If the United States deems it appropriate, the EPA or GAEPD may assist such Settling Defendants or Owner Settling Defendant, or take independent action, in obtaining such Proprietary Controls, agreements, releases, subordinations, modifications, or relocations of prior encumbrances that affect the title to the Affected Property, as applicable. In the event that the EPA or GAEPD provides such assistance, such Settling Defendants shall reimburse the EPA and/or GAEPD for all reasonable costs expended to allow such Settling Defendants to comply with the provisions of this Consent Decree.

50. If the EPA, in consultation with GAEPD, determines that land/water use restrictions in the form of state or local laws, regulations, ordinances or other governmental controls are necessary to implement, ensure non-interference with, or ensure the protectiveness of the Remedial Measures to be performed pursuant to this Consent Decree, Settling Defendants (or Company Settling Defendants, as

applicable) shall cooperate with the EPA's and GAEPD's efforts to secure such governmental controls.

51. Nothing in this Section limits or otherwise affects the EPA's or GAEPD's right of access and entry pursuant to any applicable law, including, but not limited to, Section 3007 of RCRA, 42 U.S.C. § 6927, and other corresponding state laws.

52. Notwithstanding any deadline in this Section, Owner Settling Defendant shall not transfer its Affected Property without first executing and recording all Proprietary Controls and instruments addressing prior encumbrances regarding such Affected Property in accordance with this Section.

XIII. INFORMATION COLLECTION AND RETENTION

53. Settling Defendants shall provide to the EPA and GAEPD, 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 Settling Defendants' possession or control or that of their contractors or agents relating to activities at the Facility or to the implementation of this Consent Decree, 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 related to the Work. Settling Defendants shall also, upon request, make available to the EPA and GAEPD, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

54. Privileged and Protected Claims.

a. Settling Defendants may assert that all or part of a Record requested by the EPA and/or GAEPD is privileged or protected as provided under federal law, in lieu of providing the Record, provided Settling Defendants comply with Paragraph 54.b and except as provided in Paragraph 54.c.

b. If Settling Defendants assert such a privilege or protection, Settling Defendants shall provide the EPA and GAEPD 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, each addressee, and 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, the Record shall be provided to the EPA and GAEPD in

redacted form to mask the privileged or protected portion only. Settling Defendants shall retain all Records that Settling Defendants claim privileged or protected until the EPA, in consultation with GAEPD, has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Settling Defendants' favor.

c. Settling Defendants may make no claim of privilege or protection regarding:

1. Any data regarding 1 East Porter Street, 6 East Porter Street, 26 Freeman Street, or 63 Industrial Drive, Cartersville, Georgia, 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 1 East Porter Street, 6 East Porter Street, 26 Freeman Street, or 63 Industrial Drive, Cartersville, Georgia; or
2. The portion of any Record that Settling Defendants are required to create or generate pursuant to this Consent Decree.

55. Business Confidential Claims. Settling Defendants may assert that all or part of a Record provided to the EPA and GAEPD under this Section is business confidential to the extent permitted by and in accordance with 40 C.F.R. § 2.203. Settling Defendants shall segregate and clearly identify all Records or parts thereof submitted under this Consent Decree for which Settling Defendants assert business confidentiality claims. Records submitted to the EPA and GAEPD and determined by the EPA, in consultation with GAEPD, to be confidential 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 the EPA and GAEPD, or if the EPA has notified Settling Defendants that the Records are not confidential under the standards of 40 C.F.R. Part 2, Subpart B, the public may be given access to such Records without further notice to Settling Defendants.

56. Notwithstanding any provision of this Consent Decree, the EPA and GAEPD retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under RCRA, the GHWMA, and any other applicable statutes or regulations.

57. Until five (5) years after the EPA provides Settling Defendants with notice, pursuant to Section XXVI (Termination), that all Work has been fully

performed in accordance with this Consent Decree, Settling Defendants shall preserve and retain all non-identical copies of Records (including Records in electronic form) now in their possession or control or that come into their possession or control, that relate in any manner to this Consent Decree or to hazardous, solid, and universal waste management and/or disposal at the Facility. Settling Defendants must also retain, and instruct their contractors and agents to preserve, for the same time period specified above, all non-identical copies of the last draft or final version of any Records (including Records in electronic form) now in their possession or control or that come into their possession or control that relate in any manner to performance of the Work, provided, however, that Settling Defendants (and their contractors and agents) must retain, in addition, copies of all data generated during the performance of the Work and not contained in the aforementioned Records required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

58. At the conclusion of this record retention period, Settling Defendants shall notify the EPA and GAEPD at least ninety (90) days prior to the destruction of any such Records, and, upon request by the EPA and/or GAEPD, received by

Settling Defendants prior to the expiration of such ninety (90) days, and except as provided in Paragraph 54 (Privileged and Protected Claims), Settling Defendants shall deliver any such records to the EPA and/or GAEPD.

59. Settling Defendants certify that, to the best of their knowledge and belief, after thorough inquiry, they have not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records (other than identical copies) relating to their potential liability regarding the Facility since notification of potential liability by the EPA or GAEPD and that they have fully complied with any and all EPA and GAEPD requests for information regarding the Facility pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, and state law.

XIV. FAILURE TO COMPLY WITH REQUIREMENTS OF CONSENT DECREE

60. Interest on Late Payments. In the event any payment required by Section VI (Civil Penalty) or Section XIV (Failure to Comply with Requirements of Consent Decree) is not received when due, interest shall accrue on the unpaid balance through the date of payment. Interest shall accrue in accordance with 28 U.S.C. § 1961 or 33 U.S.C. § 2705 on any amount overdue. If interest is due, Settling Defendants (or Company Settling Defendants, as applicable) shall submit a statement with the payment to the Financial Litigation Unit of the United States

Attorney's Office for the Northern District of Georgia setting forth the calculation of interest due. Personnel from the United States Attorney's Office, Financial Litigation Unit, will advise Settling Defendants (or Company Settling Defendants, as applicable) in the event such calculation requires adjustment.

61. Stipulated Penalties. Settling Defendants (or Company Settling Defendants, as applicable) shall be liable for stipulated penalties in the amounts set forth below to the United States and the State of Georgia for failure to comply with the requirements of this Consent Decree, unless excused under Section XVII (Force Majeure). "Compliance" by Settling Defendants (or Company Settling Defendants, as applicable) shall include completion of the activities under this Consent Decree or any Work Plan or other plan or document approved under this Consent Decree in accordance with all applicable requirements of law, this Consent Decree, and any plans or other documents submitted to and approved by the EPA, in consultation with GAEPD, pursuant to this Consent Decree, and within the specified time schedules established by and approved under this Consent Decree.

62. For noncompliance with any of the requirements identified below, the following stipulated penalties shall accrue per violation per day:

	<u>Period of Noncompliance</u>		
	<u>Days 1-30</u>	<u>Days 31-60</u>	<u>Over 60 days</u>
Failure to timely submit any required Work Plan	\$2,000	\$3,000	\$5,000
Failure to meet deadlines for commencing Work under the Consent Decree or any Work Plan	\$750	\$2,500	\$5,000
Failure to pay civil penalty on time	\$5,000	\$5,000	\$5,000
Failure to pay stipulated penalties on time	\$750	\$2,750	\$5,000
Failure to provide financial assurance on time	\$750	\$2,750	\$5,000
For any other violation of this Consent Decree	\$1,000	\$1,000	\$1,000

63. All penalties shall begin to accrue on the day after complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance, except as provided below. Nothing herein shall prevent the simultaneous accrual of penalties for separate violations of this Consent Decree. Settling Defendants (or Company

Settling Defendants, as applicable) shall pay all penalties accruing under this Section within thirty (30) days of the date the United States provides a written demand for payment, unless Settling Defendants (or Company Settling Defendants, as applicable) invoke the Dispute Resolution procedures under Section XV (Dispute Resolution).

64. Stipulated penalties shall continue to accrue as provided in Paragraph 63, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of the United States, in consultation with the State of Georgia, that is not appealed to the Court, Settling Defendants (or Company Settling Defendants, as applicable) shall pay accrued penalties determined to be owing, together with interest, to the United States and the State of Georgia within thirty (30) days of the effective date of the agreement or the receipt of the United States' decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Settling Defendants (or Company Settling Defendants, as applicable) shall pay all accrued penalties determined by the

Court to be owing, together with interest, within sixty (60) days of receiving the Court's decision or order, except as provided in subparagraph c, below.

c. If any party appeals the District Court's decision, Settling Defendants (or Company Settling Defendants, as applicable) shall pay all accrued penalties determined to be owing, together with interest, within fifteen (15) days of receiving the final appellate court decision.

65. Settling Defendants' (or Company Settling Defendants', as applicable) total stipulated penalty liability for each violation of this Consent Decree shall be divided in half and one half paid to the United States and one half paid to the State of Georgia. All stipulated penalties to the United States under this Section shall be paid by certified or cashier's check(s) made payable to the "Treasurer of the United States," shall be mailed to the United States Attorney's Office for the Northern District of Georgia, attention Chief, Civil Division, as set forth in Paragraph 17 above, shall indicate that the payment is for stipulated penalties, shall state the basis for the payment of stipulated penalties, and shall reference DOJ file number 90-7-1-10141, and the name and address of the party making payment. All payments to the State of Georgia under this Section shall be paid by certified or cashier's check(s) made payable to the "Georgia Department of

Natural Resources” and mailed as set forth in Paragraph 18 above. Copies of the transmittal letter and check(s) shall be sent to the United States and the State of Georgia as set forth in Section XXV (Notices and Submissions).

66. The United States and/or the State of Georgia, in the unreviewable exercise of their respective discretion, may, either jointly or independently, reduce or waive any portion of stipulated penalties otherwise due under this Consent Decree.

67. The penalties set forth in this Section do not preclude the United States or the State of Georgia from pursuing any other remedy or sanction, including contempt sanctions or statutory civil penalties, which may be available by reason of Settling Defendants’ failure to comply with any of the requirements of this Consent Decree, and Settling Defendants retain all rights to contest such actions. The payment of such penalties shall not alter in any way Settling Defendants’ obligation to complete performance required under this Consent Decree.

XV. DISPUTE RESOLUTION

68. Unless otherwise expressly provided for in this Consent Decree, Settling Defendants shall have the right to dispute any decision of the United States

or the State of Georgia under this Consent Decree or the attached Statement of Work (Appendix B), and the provisions of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, the provisions in this Section shall not apply to actions by the United States or the State of Georgia to enforce the obligations of Settling Defendants that have not been disputed in accordance with this Section.

69. Any dispute which arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed thirty (30) days from the time the dispute arises, unless such time period is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends a written Notice of Dispute to the other party.

70. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraphs, then the position advanced by the United States, in consultation with the State of Georgia, shall be considered binding unless, within twenty (20) days after the conclusion of the informal negotiation period, Settling Defendants (or Company Settling Defendants, as applicable) invoke the formal dispute resolution procedures of this Section by

serving on the United States and the State of Georgia, as set forth in Section XXV (Notices and Submissions), a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis or opinion supporting that position, any supporting documentation relied upon by Settling Defendants (or Company Settling Defendants, as applicable), and any actions which Settling Defendants (or Company Settling Defendants, as applicable) consider necessary to resolve the dispute. The United States (after consultation with the State of Georgia) shall serve its Statement of Position within sixty (60) Days of receipt of Settling Defendants' (or Company Settling Defendants', as applicable) Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis or opinion supporting its position, and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Settling Defendants (or Company Settling Defendants, as applicable), unless such Settling Defendants file a motion for judicial review of the dispute in accordance with Paragraph 72.

71. An administrative record of the dispute shall be maintained by the EPA. The administrative record shall include the Statement of Position and all of the information provided by Settling Defendants (or Company Settling Defendants,

as applicable) pursuant to the preceding Paragraph, the United States' Statement of Position and any other documents relied upon by the United States, in consultation with the State of Georgia. Where appropriate, the United States, in consultation with the State of Georgia, shall allow submission of supplemental statements of position, data, reports, or affidavits, by the parties to the dispute.

72. The United States' Statement of Position shall be binding on Settling Defendants (or Company Settling Defendants, as applicable) unless, within fifteen (15) days of receipt of the United States' Statement of Position, Settling Defendants (or Company Settling Defendants, as applicable) file a notice of judicial appeal which shall set forth a description of the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Decree. The United States, in consultation with the State of Georgia, may file a response to the notice of judicial appeal.

73. In any such judicial appeal, Settling Defendants (or Company Settling Defendants, as applicable) shall have the burden of proving on the administrative record that the United States' position is arbitrary and capricious or contrary to law or the provisions of this Consent Decree. If the Court determines that the United

States' position is arbitrary and capricious, or contrary to law or the provisions of this Consent Decree, the Court may grant relief in accordance with applicable principles of law governing review of agency determinations on an administrative record, including but not limited to remanding the dispute for further consideration by the agencies or supplementation of the administrative record as appropriate.

74. The invocation of formal dispute resolution procedures under this Section shall not of itself extend or postpone any obligation of Settling Defendants (or Company Settling Defendants, as applicable) under this Consent Decree, but the payment of stipulated penalties with respect to the disputed matter shall be stayed pending resolution of the dispute. Settling Defendants (or Company Settling Defendants, as applicable) may request of the United States and the State of Georgia that performance be suspended pending dispute resolution if performance would: (a) render moot the matter submitted to dispute resolution; or (b) pose a risk to human health or the environment. Stipulated penalties shall accrue during any dispute resolution until forty-five (45) Days after Settling Defendants (or Company Settling Defendants, as applicable) serve on the United States and the State of Georgia their Statement of Position under Paragraph 70. If the United States issues a Statement of Position under Paragraph 70 that does not

resolve the dispute in the Settling Defendants' (or Company Settling Defendants', as applicable) favor, the accrual of stipulated penalties under Section XIV will resume when the United States serves the Settling Defendants (or Company Settling Defendants, as applicable) with its Statement of Position and will continue to accrue until the earlier of the violation ending, the required performance occurring, or, if Settling Defendants (or Company Settling Defendants, as applicable) submit their complete notice of judicial appeal under Paragraph 72, the accrual of stipulated penalties during the pendency of the dispute before the Court shall be determined by the District Court. To the extent that Settling Defendants (or Company Settling Defendants, as applicable) prevail on the disputed issue, stipulated penalties shall be excused.

75. Upon resolution of any dispute, whether informally or using the procedures in this Section, Settling Defendants (or Company Settling Defendants, as applicable) shall, within thirty (30) days or such other time as the United States may approve, incorporate the resolution into an amended Work Plan or procedure and proceed with the Work according to the amended plan or procedures.

XVI. INDEMNIFICATION

76. The United States and the State of Georgia do not assume any liability by entering into this Consent Decree. Settling Defendants (or Company Settling Defendants, as applicable) agree to indemnify, save, and hold harmless the United States, the State of Georgia, their agencies, departments, officials, agents, employees, contractors, subcontractors and representatives from any and all claims or causes of action arising from or on account of acts or omissions of Settling Defendants (or Company Settling Defendants, as applicable), their officers, directors, employees, contractors, subcontractors, receivers, trustees, agents, or assignees, and any other person acting on their behalf or under their control in carrying out the activities pursuant to this Consent Decree. Further, Settling Defendants (or Company Settling Defendants, as applicable) agree to pay the United States and the State of Georgia all costs they incur including, but not limited to, reasonable attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States or the State of Georgia based on acts or omissions of Settling Defendants (or Company Settling Defendants, as applicable), their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree. Neither

the United States nor the State of Georgia shall be held out as a party to any contract entered into by or on behalf of Settling Defendants (or Company Settling Defendants, as applicable) in carrying out activities pursuant to this Consent Decree. Neither Settling Defendants (nor Company Settling Defendants, as applicable) nor any such contractor shall be considered an agent of the United States or the State of Georgia.

77. Settling Defendants (or Company Settling Defendants, as applicable) waive all claims against the United States and the State of Georgia for damages or reimbursement or for set-off of any payments made or to be made to the United States or the State of Georgia arising from or on account of any contract, agreement, or arrangement between Settling Defendants (or Company Settling Defendants, as applicable) and any person for performance of Work on or relating to the Facility, including, but not limited to, claims on account of construction delays. In addition, Settling Defendants (or Company Settling Defendants, as applicable) shall indemnify and hold harmless the United States and the State of Georgia with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Settling Defendants (or Company Settling Defendants, as applicable) and any person for

performance of Work on or relating to the Facility, including, but not limited to, claims on account of construction delays.

XVII. FORCE MAJEURE

78. Settling Defendants (or Company Settling Defendants, as applicable) shall perform the requirements of this Consent Decree in the manner and within the time limits set forth herein, unless the performance is prevented or delayed by events which constitute a force majeure. No stipulated penalties shall accrue for any time period during which performance is excused or delayed as a result of a force majeure event. Settling Defendants' (or Company Settling Defendants', as applicable) obligation to comply with one or more of the provisions of this Consent Decree shall be deferred to the extent and for the duration that the delay is caused by a force majeure event. A "force majeure" is defined as any event caused by circumstances beyond the control of Settling Defendants (or Company Settling Defendants, as applicable), or any entity subject to control by Settling Defendants (or Company Settling Defendants, as applicable), including a contractor or consultant, which delays or prevents performance of any Work or other action undertaken to fulfill any obligation of Settling Defendants (or Company Settling Defendants, as applicable) under this Consent Decree, despite the best efforts

under the circumstances of Settling Defendants (or Company Settling Defendants, as applicable), their contractors, or consultants to perform such Work or other action in a timely manner. The requirement that Settling Defendants (or Company Settling Defendants, as applicable) exercise “best efforts . . . to fulfill any obligation” includes using best efforts under the circumstances to anticipate any potential force majeure event and best efforts under the circumstances to address the effects of any potential force majeure event as it is occurring and following the potential force majeure event, such that the delay is minimized to the extent reasonably possible under the circumstances. “Force Majeure” shall not apply to any delay due to increased costs or Settling Defendants’ (or Company Settling Defendants’, as applicable) financial inability to carry out the provisions of this Consent Decree, to normal precipitation events, or to Settling Defendants’ (or Company Settling Defendants’, as applicable) failure to make timely and bona fide applications and to exercise diligent efforts to obtain permits. For purposes of this Consent Decree, “normal precipitation events” are those which are equal to or less than a twenty-four (24) hour, twenty-five (25) year storm event.

79. When circumstances are occurring or have occurred that can reasonably be anticipated to cause a delay in achieving any requirement set forth in

this Consent Decree, or in any plan developed hereunder within the time allowed, Settling Defendants (or Company Settling Defendants, as applicable) shall notify the EPA and GAEPD promptly in writing by electronic mail in accordance with Paragraph 35, and in no event later than seventy-two (72) hours after Settling Defendants (or Company Settling Defendants, as applicable) knew or reasonably should have known of the occurrence of such circumstances. Such notice shall include an estimate of the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to minimize the delay, an estimated time table for implementation of such measures, a statement as to whether Settling Defendants (or Company Settling Defendants, as applicable) are claiming a “force majeure,” and the bases for such a claim. Settling Defendants (or Company Settling Defendants, as applicable) shall adopt all reasonable measures to avoid or minimize any such delay. Failure to comply with the notice provision of this Section shall constitute a waiver of Settling Defendants’ (or Company Settling Defendants’, as applicable) right to assert force majeure. Notification of any delay, in and of itself, shall not extend the time allowed for meeting any requirement or excuse the delay or payment of stipulated penalties.

80. If the EPA, in consultation with GAEPD, agrees that the delay was attributable to a force majeure event, the EPA will extend the time for performance of that requirement by a period not greater than the delay resulting from such circumstances, unless the Parties agree that a different time period is acceptable. Such an extension does not alter the schedule for performance or completion of other tasks required under this Consent Decree, except that the EPA may, in consultation with GAEPD, extend the time for performance of other tasks under this Consent Decree that the EPA and GAEPD agree will also necessarily be delayed as a result of the force majeure event.

81. In the event that the EPA, in consultation with GAEPD, determines that the delay or anticipated delay has not been or will not be caused by a force majeure event, and any Settling Defendant (or any Company Settling Defendants, as applicable) elects to invoke the dispute resolution procedures set forth in Section XV (Dispute Resolution), it shall do so no later than fifteen (15) days after receipt of notification. In any such dispute resolution proceeding, Settling Defendants (or Company Settling Defendants, as applicable) shall have the burden of demonstrating by the preponderance of the evidence that the event was a “force majeure” event, that the duration of the delay caused by such event is or was

reasonable under the circumstances, that, as a result of the delay, a particular extension period is appropriate, and that Settling Defendants (or Company Settling Defendants, as applicable) complied with Paragraphs 78-80. If Settling Defendants (or Company Settling Defendants, as applicable) carry this burden, the delay at issue shall be deemed not to be a violation by Settling Defendants (or Company Settling Defendants, as applicable) of the affected obligation of this Consent Decree.

XVIII. RESERVATION OF RIGHTS

82. The United States and the State of Georgia expressly reserve all rights and defenses that they may have, including, subject to the provisions of this Consent Decree, the right to disapprove of Work performed by Settling Defendants (or Company Settling Defendants, as applicable) pursuant to this Consent Decree and to request that Settling Defendants (or Company Settling Defendants, as applicable) perform tasks in addition to those stated in this Consent Decree, the appendices or attachments hereto, or any Work Plan(s).

83. The United States and the State of Georgia hereby reserve all statutory and regulatory powers, authority, rights, and remedies, both legal and equitable, to enforce Settling Defendants' obligation to comply with any of the requirements of

this Consent Decree. Except as otherwise provided in Section XIX (Covenant of Plaintiffs) of this Consent Decree, this Consent Decree shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers and/or authorities, civil or criminal, which the United States or the State of Georgia have under RCRA, the GHWMA, the SWMA, or any other statutory, regulatory, or common law enforcement authority of the United States or the State of Georgia.

84. Except as otherwise provided in Section XIX (Covenant of Plaintiffs) of this Consent Decree, this Consent Decree and compliance by Settling Defendants with the terms of this Consent Decree, shall not relieve Settling Defendants of their obligation to comply with RCRA, the GHWMA, the SWMA, or any other applicable local, state, or federal laws, regulations, and permits.

85. This Consent Decree is not intended to be nor shall it be construed as a permit or permit modification. Except as otherwise provided in this Consent Decree, this Consent Decree does not relieve Settling Defendants of any obligation to obtain and comply with any local, state, or federal permits, and the United States and the State of Georgia reserve the right to impose any permit requirement within their authorities.

86. The EPA and GAEPD reserve, in accordance with applicable law, the right to halt Work and/or perform any portion of the Work consented to herein or any additional site characterization or response actions as they deem necessary to protect public health and the environment.

87. Except as otherwise specified in this Consent Decree, Settling Defendants do not waive any right, defense, or claim that they may have.

88. This Consent Decree does not limit or affect the rights of Settling Defendants, the State of Georgia, or the United States with respect to any third parties.

89. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to reinstitute or reopen proceedings against Settling Defendants in this action or in a new action, or to commence a new action seeking relief other than as provided in this Consent Decree, if the Financial Information provided by Settling Defendants, or the financial certification made by Settling Defendants in Section VI (Civil Penalty) is false or, in any material respect, inaccurate.

XIX. COVENANT OF PLAINTIFFS

90. In consideration of the Work that will be performed and the penalties that will be paid by Settling Defendants (or Company Settling Defendants, as applicable) under the terms of the Consent Decree, and except as specifically provided in this Section, the United States and the State of Georgia covenant not to sue or to take administrative action against Settling Defendants (or Company Settling Defendants, as applicable), their officers, directors, and employees, for claims specifically alleged in Plaintiffs' Complaint. This covenant not to sue is expressly conditioned upon the complete and satisfactory performance by Settling Defendants (or Company Settling Defendants, as applicable) of their obligations under this Consent Decree and may be voided at any time prior to completion of the Work if Settling Defendants (or Company Settling Defendants, as applicable) fail to comply with any of the requirements of this Consent Decree. This covenant not to sue is further conditioned upon the veracity and completeness of the Financial Information provided to the United States by each Settling Defendant. If the Financial Information submitted by any Settling Defendant is subsequently determined by the United States to be false, or in any material respect, inaccurate, that Settling Defendant shall forfeit all payments made pursuant to this Consent Decree. Such forfeiture shall not constitute liquidated

damages and shall not in any way foreclose the United States' right to pursue any other causes of action arising from any Settling Defendant's false or materially inaccurate information. This covenant not to sue extends only to Settling Defendants, their officers, directors, and employees, and does not extend to any other person.

91. Subject to the covenant not to sue in the preceding Paragraph, the State of Georgia and the United States retain all authority and reserve all rights to take any and all actions authorized by law to protect human health and the environment. Except as otherwise provided herein, the entry of this Consent Decree and Settling Defendants' consent to comply shall not limit or constitute a waiver of any rights or remedies, or otherwise preclude the rights or remedies of the United States or the State of Georgia, and this Consent Decree is without prejudice to the United States' and the State of Georgia's rights and remedies, including but not limited to: (1) the right to pursue remedies available to the United States and the State of Georgia for any violation by Settling Defendants of this Consent Decree, or of any federal or state law, regulation, or permitting condition not specifically alleged in the Complaint and resolved by this Consent Decree; and (2) the rights of the United States and the State of Georgia to pursue any rights or

remedies under the statutes they administer. The United States and the State of Georgia reserve authority to take any action authorized by law if there may be an imminent and substantial endangerment in connection with solid waste or hazardous waste, hazardous constituents, or other hazardous substances or pollutants and contaminants at or from the Facility.

92. Nothing in this Consent Decree is intended either to create any rights in or grant any cause of action to any person not a party to this Consent Decree, or to release or waive any claim, cause of action, demand, or defense in law or equity that any party to this Consent Decree may have against any person(s) or entity not a party to this Consent Decree.

93. Except as provided herein, Plaintiffs hereby reserve all statutory and regulatory powers, authorities, rights, remedies, both legal and equitable, civil, criminal, or administrative, including those that may pertain to Settling Defendants' failure to comply with any of the requirements of this Consent Decree, RCRA, the GHWMA, or the SWMA against Settling Defendants, their officers and directors.

XX. COVENANT OF SETTLING DEFENDANTS

94. Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against Plaintiffs, the United States and the State of Georgia, with respect to the allegations contained in the Complaint, actions or omissions related to Section VII (Work to be Performed) herein, or any of the Work required hereunder. Settling Defendants hereby reserve and retain any defense, cause of action, and right not explicitly waived in this Consent Decree.

XXI. MODIFICATION

95. Except as specifically provided for herein, there shall be no modifications or amendments of this Consent Decree without written agreement of the Parties to this Consent Decree and approval by this Court. Minor changes, or changes to the technical provisions set forth in Appendix B or to any schedule, may be made without approval of the Court, upon written agreement among Settling Defendants and the EPA, in consultation with GAEPD.

XXII. RETENTION OF JURISDICTION

96. This Court retains jurisdiction over both the subject matter of this Consent Decree and Settling Defendants for the duration of the performance of the terms and provisions of this Consent Decree, including its appendices, for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section XV (Dispute Resolution) hereof.

97. The Parties retain the right to seek to enforce the terms of this Consent Decree and to take any action authorized by federal or state law not inconsistent with the terms of this Consent Decree to achieve or maintain compliance with the terms and conditions of this Consent Decree or otherwise.

XXIII. COSTS

98. Each party to this action shall bear its own costs and attorneys' fees in the actions resolved by this Consent Decree.

XXIV. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

99. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States and the State of Georgia reserve the right to withdraw or withhold their consent if the comments regarding the Consent Decree disclose facts or considerations that indicate that the Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

100. If, for any reason, the Court should decline to approve this Consent Decree in the form presented, then this agreement is voidable at the discretion of any party, and the terms of the Consent Decree may not be used as evidence in any litigation between the Parties.

XXV. NOTICES AND SUBMISSIONS

101. Except where notice is specifically required to be sent to the Project Managers set forth in Paragraphs 32 and 33 of this Consent Decree, whenever,

under the terms of this Consent Decree, notice is required to be given, or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other party in writing. Notices may be given by electronic mail, courier, overnight mail, hand delivery, or by U.S. Mail. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified in this Section shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, the State of Georgia, and Settling Defendants, respectively.

As to the United States:

Colleen E. Michuda
Senior Attorney
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

As to the State of Georgia:

Suzanne Success Osborne
Assistant Attorney General
Georgia Department of Law
40 Capitol Square SW
Atlanta, Georgia 30334-1300

As to Settling Defendants:

John A. Patterson
Metal Conversion Technologies, LLC
1 East Porter Street
P.O. Box 1026
Cartersville, Georgia 30120

With a copy to:

Justin S. Daniels, Esq.
Baker Donelson Bearman, Caldwell & Berkowitz, PC
3414 Peachtree Road, Suite 1600
Atlanta, Georgia 30326-1164

XXVI. TERMINATION

102. This Consent Decree shall terminate upon motion filed by Plaintiffs after all actions required to be taken by Settling Defendants pursuant to this Consent Decree, including the Work required in Section VII (Work to be Performed) and the appendices hereto, have been completed, provided that Settling Defendants have been in compliance with the terms of the Decree for the preceding twenty-four (24) months and that Settling Defendants have paid any accrued stipulated penalties; and that Settling Defendants have certified in writing that they are in compliance with and have been in compliance with all the terms and conditions of this Consent Decree and the appendices and attachments thereto, for the preceding twenty-four (24) months.

103. Within ninety (90) days of receiving Settling Defendants' certification of compliance, Plaintiffs will file a motion with the Court seeking termination of the Consent Decree, unless Plaintiffs inform Settling Defendants that they do not believe that compliance has been achieved. If Plaintiffs dispute Settling Defendants' full compliance, this Consent Decree shall remain in effect pending resolution of the dispute by the Parties or the Court.

104. IT IS HEREBY ORDERED that the foregoing Consent Decree be entered as an Order of this Court.

Date: _____

United States District Judge

The undersigned parties enter into this Consent Decree in the matter of *United States et al. v. Metal Conversion Technologies, LLC et al.*

FOR THE UNITED STATES OF AMERICA:

Dated: 5/20/2016



ELLEN M. MAHAN
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Dated: June 8, 2016



GABRIEL M. ALLEN, Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
301 Howard Street, Suite 1000
San Francisco, California 94105
Tel: 415-744-6469
Fax: 415-744-6476

JOHN A. HORN
United States Attorney
Northern District of Georgia

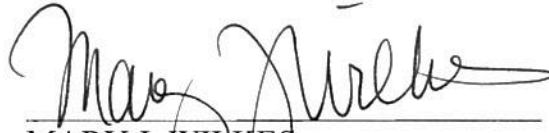
AMY BERNE
Assistant United States Attorney
Northern District of Georgia

75 Spring St. S.W.
Atlanta, GA 30303
Tel: 404-581-6261
Fax:404-581-6163

The undersigned parties enter into this Consent Decree in the matter of *United States et al. v. Metal Conversion Technologies, LLC et al.*

FOR THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY:

Dated: 6/6/16



MARY J. WILKES
Regional Counsel
U. S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303-8960

Dated: 6/6/16




COLLEEN E. MICHUDA
Senior Attorney
U. S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303-8960

The undersigned party enter into this Consent Decree in the matter of *United States et al. v. Metal Conversion Technologies, LLC et al.*

FOR THE STATE OF GEORGIA

Dated: 5/6/2016

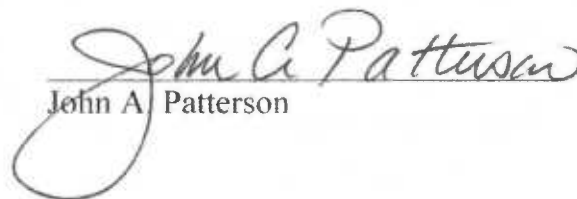


Suzanne Success Osborne
Assistant Attorney General
State of Georgia Law Department
40 Capitol Square SW
Atlanta GA, 30334-1300
Telephone: (404) 656-7618
Facsimile: (404) 651-6341

The undersigned party enters into this Consent Decree in the matter of *United States et al. v. Metal Conversion Technologies, LLC et al.*

FOR DEFENDANT JOHN A. PATTERSON:

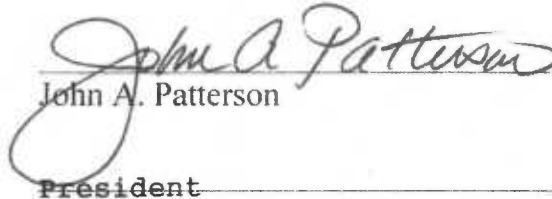
Dated: 4-28-2016


John A. Patterson

The undersigned party enters into this Consent Decree in the matter of *United States et al. v. Metal Conversion Technologies, LLC et al.*

FOR DEFENDANT METAL
CONVERSION TECHNOLOGIES, LLC

Dated: 4-28-2016


John A. Patterson

Title: President

Address: 1 East Porter Street

Cartersville, Georgia 30120

The undersigned party enters into this Consent Decree in the matter of *United States et al. v. Metal Conversion Technologies, LLC et al.*

FOR DEFENDANT 1 EAST PORTER STREET, LLC:

Dated: 4-28-2016



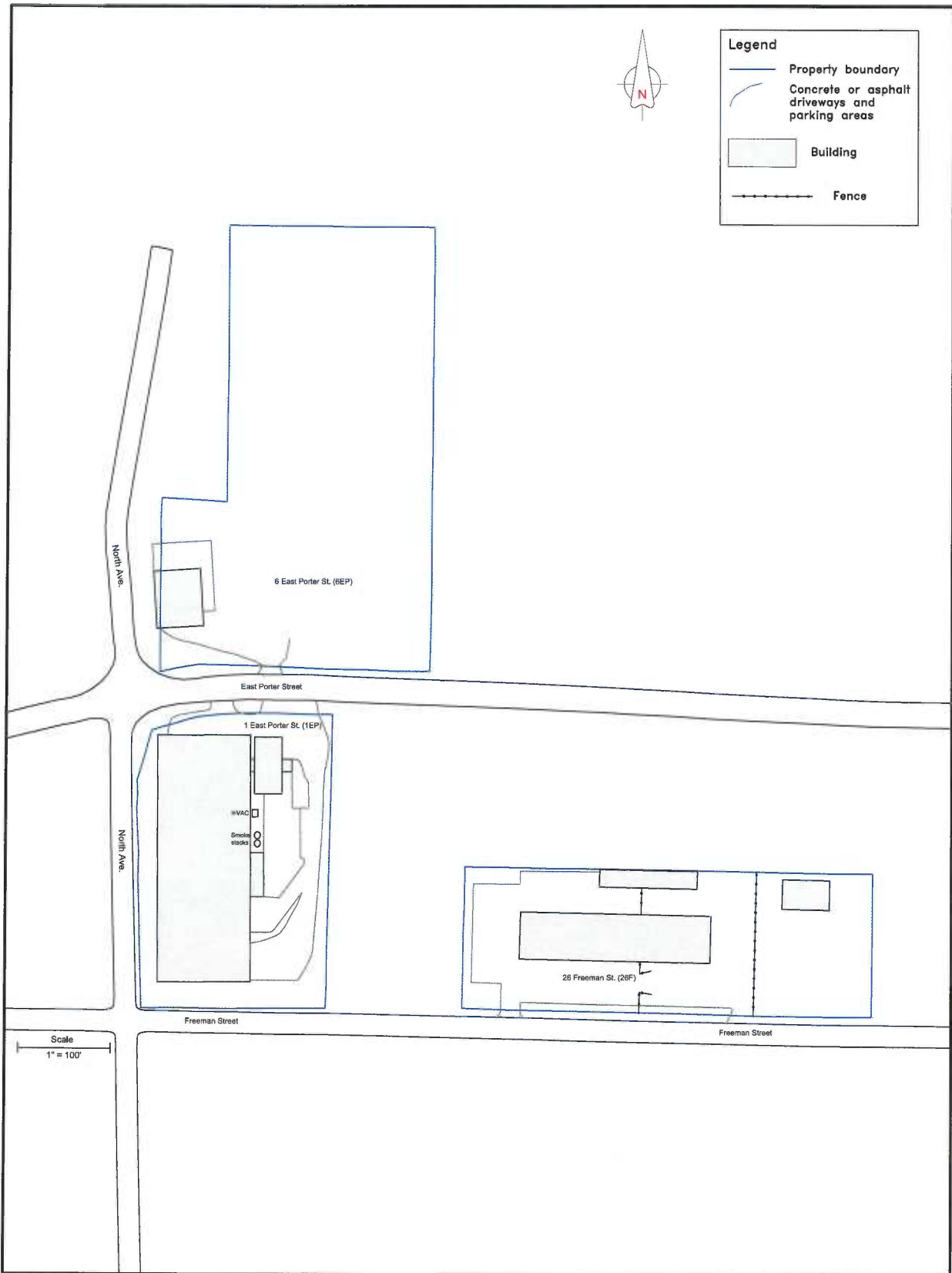
John A. Patterson


Title: President

Address: 1 East Porter Street

Cartersville, Georgia 30120

APPENDIX A



 American Environmental & Construction Services Alpharetta, GA Ph. (770) 754-6440	PROJECT Metal Conversion Technologies Cartersville, Bartow County, Georgia	TITLE Metal Conversion Technologies (1EP, 6EP and 26F) Site Layout Map	FIGURE 2
	DATE: 11/14/13	DRAWN BY: JLS	CHECKED BY: RCD

APPENDIX B

APPENDIX B

STATEMENT OF WORK

I. Introduction

This Statement of Work (“SOW”) establishes the requirements for performing the Work required by Section VII (Work to be Performed) of the Consent Decree. All actions conducted under this Consent Decree will be implemented in compliance with all regulations and requirements of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Clean Water Act, 33 U.S.C. § 1251 et seq.; the Georgia Hazardous Waste Management Act (“GHWMA”), O.C.G.A. § 12-8-60 et seq.; the Georgia Hazardous Site Response Act (“HSRA”), O.C.G.A. 12-8-90 et seq.; and other applicable federal, state, and local laws and implementing regulations. Settling Defendants (or Company Settling Defendants, as applicable) shall furnish all the personnel, equipment, materials, and services for the implementation of the Work.

The Work set forth in this SOW shall be conducted in the following Phases:

- Phase 1 shall include horizontal and vertical contaminant delineation of on- and off-site soils as set forth in Sections II.A. and II.B. of this SOW.
- Phase 2 shall include soil removal on- and off-site, as necessary to achieve cleanup levels, as set forth in Section II.C. of this SOW.
 - Phase 2A shall include soil removal off-site;
 - Phase 2B shall include soil removal on-site.
- Phase 3 shall include groundwater sampling and analysis as set forth in Section II.D. of this SOW, if necessary depending on the results of the vertical contaminant delineation conducted during Phase 1.
- Phase 4 shall include further groundwater monitoring and/or remediation as set forth in Section II.D. of this SOW, as necessary, depending on the results of the groundwater sampling and analysis conducted during Phase 3.

II. Work Plans

Settling Defendants (or Company Settling Defendants, as applicable) shall prepare and submit Work Plans (“WPs”), as described in the Consent Decree, that will specify the actions to be taken to complete the following Work under the Consent Decree:

- development and implementation of a soil sampling and analysis plan for on- and off-site soils (including sampling of adjacent residential properties) in order to determine the nature and extent of any releases of hazardous waste or hazardous constituents at or from the Facility;
- soil removal as necessary to achieve cleanup levels, including any

- necessary air monitoring;
- development and implementation of a groundwater sampling and analysis plan;
- implementation of an Environmental Covenant at the Facility, or off-site, as necessary; and
- groundwater monitoring and/or remediation, as necessary.

Each WP shall address all site-specific constituents of concern (“COCs”) as set forth in Table 1 attached hereto,¹ with the exclusion of barium and arsenic. Each WP shall include a schedule for design and implementation of the specific actions to be undertaken, as well as a Project Management Plan that includes a Quality Assurance Project Plan (“QAPP”), and a description of how the Work will be managed, along with the names and qualifications of all project personnel. The QAPP(s) shall be prepared pursuant to March 2001 “U.S. EPA Requirements for Quality Assurance Project Plans” (EPA QA-R5), available at <http://www.epa.gov/QUALITY/qs-docs/r5-final.pdf> and the December 2002 EPA “Guidance for Quality Assurance Project Plans” (EPA QA/G-5), available at <http://www.epa.gov/quality/qs-docs/g5-final.pdf>.

A summary of the screening levels required for each portion of the required sampling is as follows:

- 1) Soil samples (up to 24 inches in depth) should be screened to the EPA’s Residential Regional Screening Levels (“RSLs”).
- 2) Soil samples taken at depths greater than 24 inches (i.e., for vertical soil delineation) should be screened to the EPA’s “protection of groundwater” Soil Screening Levels (SSLs).
- 3) Groundwater samples should be screened to the HSRA Residential Risk Reduction Standards (RRS) for groundwater.
- 4) Screening of soil samples to the EPA Residential RSLs for hexavalent and trivalent chromium is required.

The EPA RSLs can be found at <http://www.epa.gov/region9/superfund/prg/> (updated June 2015). The HSRA RRSs can be found at <http://epd.georgia.gov/comparison-existing-contamination-risk-reduction-standards-391-3-19-07>.

Cleanup levels shall be based on the HSRA Residential or Industrial RRS, as appropriate. For the 1 East Porter, 6 East Porter, and 26 Freeman Street locations, unless cleanup to unrestricted use (Residential RRS) is obtained, an Environmental Covenant, pursuant to the Georgia Uniform Environmental Covenants Act (“GA UECA”), O.C.G.A. §§ 44-16-1 *et seq.*, shall be placed on the property. To the extent Settling Defendants (or Company Settling Defendants, as applicable) cannot obtain any Non-Settling Owner’s consent and agreement for an Environmental Covenant, cleanup levels shall be the Residential RRS. Any off-site residential property impacted by contamination from the MCT Facility shall

¹ Table 1 is taken from the December 19, 2013 American Environmental & Construction Services, Inc. (“AECS”) *Sampling and Analysis Report* prepared for MCT.

be cleaned up to the Residential RRS. The WP may propose, as appropriate, use of the EPA's August 2003 "Superfund Lead-Contaminated Residential Sites Handbook."

Quality Assurance: For all WPs, Settling Defendants (or Company Settling Defendants, as applicable) shall follow current EPA sampling, analysis, quality control, quality assurance and data validation methods and procedures. All laboratory sample analysis shall include Level IV Data Packages. EPA standard operating procedures and quality assurance methods are found in the EPA Science and Ecosystem Support Division's ("SESD") *Field Branches Quality System and Technical Procedures* (FBQSTP). The FBQSTP can be found at <http://www.epa.gov/region4/sesd/fbqstp/index.html>. Additional information related to Quality Assurance Project Plans ("QAPPs") can be found at http://www.epa.gov/quality/qa_docs.html.

Each respective WP required by the Consent Decree shall contain the following components:

A. Phase 1 WP: Horizontal Contaminant Delineation in Soil

Settling Defendants shall perform additional horizontal delineation of COCs in soils at the 26 Freeman Street and 6 East Porter Street locations. In preparing the Phase 1 WP, Settling Defendants may build upon the work proposed in the Joe Tanner & Associates and EARTHCON *Soil Sampling Work Plans*, dated June 26, 2014, revised to incorporate the EPA's July 28, 2014, comments.

26 Freeman Street: A minimum of six (6) borings are required to the north of the fence line at the northern boundary of the 26 Freeman Street property, between sample locations 26F-C-6 and 26F-M-6. See attached Figure 18 from the AECS December 19, 2013 *Sampling and Analysis Report* for sample locations. A minimum of three (3) borings are required along the western boundary of the 26 Freeman Street property. Additional borings may be required to complete the horizontal delineation of contamination to the Residential Soil RSL for any COCs found above such RSL in the relevant prior boring(s). To the extent Residential screening levels are met within the Facility boundaries, off-site sampling is not required.

6 East Porter Street: A minimum of six (6) borings are required along the eastern boundary of the 6 East Porter Street property, near sample locations 6EP-L-4, 6EP-L-1, and 6EP-K-10. A minimum of two (2) additional borings are required along the western boundary of the 6 East Porter Street property near sample locations 6EP-B-4 and 6EP-B-5. See attached Figure 13 from the AECS December 19, 2013 *Sampling and Analysis Report* for sample locations. Additional borings may be required to complete the horizontal delineation of contamination to the Residential Soil RSL for any COCs found above such RSL in the relevant prior boring(s). To the extent Residential screening levels are met within the Facility boundaries, off-site sampling is not required.

Samples shall be taken at two (2) intervals: 0-6 inches and 18-24 inches below ground surface (“bgs”), and shall be screened to the EPA Residential Soil RSL.

B. Phase 1 WP: Vertical Contaminant Delineation in Soil

In the event that the samples collected as outlined in Section II.A. identify concentrations of contaminants above the EPA Residential Soil RSL in the sample collected at 18-24 inches bgs, the Phase 1 WP shall include provisions for additional soil samples at depth intervals below 24 inches bgs as set forth below to determine the vertical extent of contamination by the relevant COC. These additional samples shall be screened to the EPA protection of groundwater SSLs.

The Phase 1 WP shall include additional subsurface soil sampling at the following locations: MC-03, 1EP-I-13.5, FA-7, and 6EP-K-10. See attached Figures 8 and 13 from the AECS December 19, 2013 *Sampling and Analysis Report* for sample locations. Soil samples shall be taken at four (4) intervals, 5-10 feet apart. Additional borings may be required to complete the vertical delineation for any COC for which the deepest-most sample at a particular location exceeds the EPA protection of groundwater SSL.

C. Phase 2 WP: Soil Removal

The Phase 2 WP shall include a plan for the removal of all soils at the Facility where sampling reflects concentrations exceeding the HSRA Residential or Industrial RRS for all COCs, with the exclusion of barium and arsenic. Soil removal shall be performed at depths of not less than 24 inches. The Phase 2 WP shall specify horizontal cut lines of no less than 10' x 10' to address each sampling point exceeding the HSRA Residential or Industrial RRS, as appropriate. The Phase 2 WP shall also include a plan to address off-site soils at properties adjacent to the Facility in the event that the samples collected as outlined in Section II.A. identify concentrations of COCs above the EPA Residential Soil RSL, with the exclusion of barium and arsenic.

1. Site Security: The Phase 2 WP shall include provisions for security at the Facility during any soil removal work to ensure the protection of human health and the environment. Security could include, but is not limited to, fencing surrounding the properties during the removal activities and/or signage reading “Danger – Unauthorized Personnel Keep Out” at each entrance to the Facility.
2. Proposed Cleanup Levels: The Phase 2 WP shall include proposed cleanup levels based on either the HSRA Residential or Industrial RRS levels, as appropriate depending upon the land use of the properties and the consent of the current owners, for any COCs exceeding screening levels. Properties adjacent to the Facility may require cleanup to the Residential or Industrial RRS depending upon the land use of the properties and the consent of the

current owners. Any adjacent property currently used for residential use will require cleanup to the Residential RRS.

3. Compliance with RCRA and the GHWMA: The Phase 2 WP shall include a description of how all soil removal work will comply with applicable hazardous waste management regulations, including, but not limited to, the generator standards, including the requirement for waste determinations in 40 CFR § 262.11, and any Land Disposal Restrictions (LDRs) contained in 40 CFR Part 268, as well as all applicable state and local regulations and permitting requirements.
4. Air Monitoring and Contingency Plan: The Phase 2 WP shall include a fugitive dust suppression and particulate monitoring program during excavation activities to limit exposure of on-site personnel and the public around the Facility or off-site during any removal and excavation activities.
5. Confirmatory Sampling: The Phase 2 WP shall include a post-excavation sampling plan to conduct representative sampling of all remaining soils after the removal work has been performed to identify whether all COCs above cleanup levels have been addressed. To the extent Confirmatory Sampling reveals levels of COCs exceeding the cleanup levels, additional delineation and/or removal work may be required.

D. Phase 3 WP: Groundwater Sampling and Remediation

In the event that samples collected in vertical soils as outlined in Section II.B. identify any concentrations of COCs above the EPA protection of groundwater SSLs, a Phase 3 WP shall include groundwater sampling of COCs at the following four (4) locations: MC-03, 1EP-I-13.5, FA-7, and 6EP-K-10, see attached Figures 8 and 13 from the AECS *Sampling and Analysis Report* for sample locations. One (1) additional groundwater well determined by the EPA and GAEPD to reflect upgradient groundwater conditions, may be installed if appropriate. Additional groundwater sampling may thereafter be required to complete delineation of potential groundwater contamination.

The groundwater sampling report shall include the groundwater quality (e.g., temperature, turbidity, specific conductivity, pH) and flow direction. Groundwater samples shall be screened to the HSRA Residential RRS.

For groundwater contamination emanating from the Facility, and exceeding screening levels and upgradient well concentration levels, Company Settling Defendants shall prepare and implement a Phase 4 WP for monitoring and remediation of groundwater, if necessary. The Phase 4 WP shall be subject to review and approval in accordance with Section IX (Agency Review and Approval of Document Submittals) of the Consent Decree.

E. Environmental Covenant

To the extent any contamination in soil or groundwater exists at the Facility, or off-site, at levels above those for unrestricted use (Residential RRS), Settling Defendants (or Company Settling Defendants, as applicable) shall place an Environmental Covenant on the Facility or off-site property. Such Environmental Covenant shall be developed and executed pursuant to the GA UECA, and shall contain all applicable activity and use restrictions, as determined by the EPA, in consultation with GAEPD, after completion of the sampling and removal Work outlined above. If Settling Defendants (or Company Settling Defendants, as applicable) cannot obtain any Non-Settling Owner's consent and agreement for an Environmental Covenant, cleanup to the Residential RRS shall be required.

F. Phasing, Cost Estimates, and Schedule

Each WP shall include a good faith cost estimate for implementing that Phase of the Work, as well as a schedule for implementing such Phase and reporting the results. The cost estimate shall be used for purposes of obtaining financial assurance as set forth in Section XI (Financial Assurance) of the Consent Decree. Settling Defendants (or Company Settling Defendants, as applicable) shall submit to the EPA and GAEPD for approval a Work Plan for each Phase of the Work in accordance with the following schedule.

1. Within thirty (30) days of the Effective Date of the Consent Decree, Settling Defendants shall submit a Phase 1 WP for the implementation of Phase 1 actions as set forth in Sections II.A and B herein.
2. Within one (1) year of the Effective Date of the Consent Decree, Settling Defendants shall submit a Phase 2 WP for the removal of soils at the Facility and off-site (if necessary) in accordance with Section II.C. herein. Phase 2A of the WP shall provide for soil removal off-site (if necessary), followed by Phase 2B, which shall provide for soil removal on-site.
3. Within two (2) years of the Effective Date of the Consent Decree, Company Settling Defendants shall submit a Phase 3 WP for groundwater sampling and analysis (if necessary) in accordance with Section II.D. herein:
4. Within three (3) years of the Effective Date of the Consent Decree, Company Settling Defendants shall submit a Phase 4 WP if, in accordance with Section II.D. herein, additional groundwater monitoring or remediation is necessary.

In computing the time periods for submission of the Phase 2, Phase 3, and Phase 4 WPs, Settling Defendants (or Company Settling Defendants, as applicable), may exclude all calendar days during which the EPA and GAEPD are reviewing a WP submitted for any prior Phase. The calendar days during which the EPA and

GAEPD are reviewing a WP shall be calculated from the date a WP is received by the agencies to the date the EPA, in consultation with GAEPD, approves or modifies the submittal in accordance with Section IX (Agency Review and Approval of Document Submittals) of the Consent Decree.

III. Reports

- A. Progress Reports: Progress reports shall be submitted to the EPA and GAEPD on a bi-weekly basis, or as otherwise agreed to by the EPA or GAEPD, and shall contain, at a minimum: discussion of activities undertaken in the reporting period; summary of problems encountered and solutions undertaken; discussion of deviations, if any, from any approved WP Phase or other approved submissions; changes of key personnel; summary of contact with the community, local representatives, or the media; summary of Work to be performed in the next reporting period; and discussion of technical support or direction needed from the EPA or GAEPD.
- B. Final Phase Reports: Within thirty (30) calendar days after the completion of each phase of Work outlined in each approved WP for such phase, Settling Defendants (or Company Settling Defendants, as applicable) shall submit for EPA and GAEPD review and approval a Final Report for such Phase summarizing the Work performed under that WP. Each Final Phase Report shall include: a presentation of all analytical results of all sampling and analyses performed, including QA/QC documentation; a listing of quantities and types of any materials removed off-site and the ultimate destination(s) of those materials; a description of any Proprietary Controls placed on the Facility property or off-site; and an appendix containing all other relevant documentation generated during the performance of that Phase of the Work (i.e., manifests, bills of lading, invoices, contracts, and permits) not previously provided to the EPA or GAEPD.

APPENDIX C

Appendix C

Index of Financial Documents

- 1) EPA Form: Statement of Corporate Debtor for MCT
- 2) EPA Form: Individual Ability to Pay Claim, 2013
- 3) EPA Form: Individual Ability to Pay Claim, 2015
- 4) MCT Profit and Loss, January 1 to October 10, 2013
- 5) MCT Profit and Loss, January to November 2015
- 6) MCT 2013 Projection – Cash Basis
- 7) 2014 Individual U.S. Income Tax Return for John and Janet Patterson and associated Schedules and Forms
- 8) 2014 Partnership Tax Return for Metal Conversion Technologies, LLC and associated Schedules and Forms
- 9) 2014 Partnership Tax Return for J&J Heavy Equipment Leasing, LLC and associated Schedules and Forms
- 10) 2014 Individual U.S. Income Tax Return for John and Janet Patterson and associated Schedules and Forms
- 11) 2013 Partnership Tax Return for Metal Conversion Technologies, LLC and associated Schedules and Forms
- 12) 2013 Partnership Tax Return for J&J Heavy Equipment Leasing, LLC and associated Schedules and Forms
- 13) 2013 Partnership Tax Return 1 East Porter Street, LLC and associated Schedules and Forms
- 14) 2012 Individual U.S. Income Tax Return for John & Janet Patterson and associated Schedules and Forms
- 15) 2012 Individual Georgia Income Tax Return for John & Janet Patterson and associated Schedules and Forms
- 16) 2012 Partnership Tax Return for 1 East Porter Street, LLC and associated Schedules and Forms
- 17) 2012 Georgia Form 700 Partnership Tax Return for 1 East Porter Street, LLC and associated Schedules
- 18) 2012 Partnership Tax Return for J&J Heavy Equipment Leasing, LLC and associated Schedules and Forms

- 19) 2012 Partnership Tax Return for J&J Heavy Equipment Leasing, LLC and associated Schedules and Forms
- 20) 2012 Partnership Tax Return for Metal Conversion Technologies, LLC and associated Schedules and Forms
- 21) 2012 Georgia Form 700 Partnership Tax Return for Metal Conversion Technologies, LLC and associated Schedules
- 22) 2011 U.S. Individual Income Tax Return Form 1040 for John and Janet Patterson and associated Schedules and Forms
- 23) 2011 Georgia Individual Income Tax Return for John & Janet Patterson and associated Schedules and Forms
- 24) Metal Conversion Technologies, LLC Balance Sheet as of December 31, 2011
- 25) Metal Conversion Technologies, LLC Profit & Loss, January through December 2011
- 26) 2011 Form 1065, U.S Return of Partnership Income for Metal Conversion Technologies, LLC and associated Schedules and Forms
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- 28) 2011 Amended Georgia Form 700 Partnership Tax Return for Metal Conversion Technologies, LLC and associated Schedules and Forms
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- 30) J&J Heavy Equipment, LLC Profit & Loss, January through December 2011
- 31) 2011 Partnership Tax Return for J&J Heavy Equipment Leasing, LLC and associated Schedules and Forms
- 32) 2011 Georgia Form 700 Partnership Tax Return for J&J Heavy Equipment Leasing, LLC and associated Schedules and Forms
- 33) 1 East Porter Street, LLC Balance Sheet as of December 31, 2011
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- 35) 2011 Amended Partnership Tax Return for 1 East Porter Street, LLC and associated Schedules and Forms
- 36) 2011 Form 1065 Extension for 1 East Porter Street, LLC and associated Schedules and Forms
- 37) 2011 U.S. Partnership Tax Return Form 1065 for 1 East Porter Street, LLC and associated Schedules and Forms

- 38) 2011 Amended Georgia Form 700 for 1 East Porter Street, LLC and associated Schedules and Forms
- 39) 2010 U.S. Individual Income Tax Return, Form 1040 for John and Janet Patterson and associated Schedules and Forms
- 40) 2010 Georgia Income Tax Declaration for John and Janet Patterson and associated Schedules and Forms
- 41) 2010 U.S. Partnership Tax Return, Form 1065 for 1 East Porter Street, LLC and associated Schedules and Forms
- 42) 2010 Georgia Form 700 Partnership Tax Return for 1 East Porter Street, LLC and associated Schedules and Forms
- 43) 2010 U.S. Partnership Tax Return, Form 1065 for Metal Conversion Technologies, LLC and associated Schedules and Forms
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- 56) 2013 U.S. Partnership Tax Return, Form 1065 for 1 East Porter Street, LLC and associated Schedules and Forms
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- 60) Balance Sheet for 1 East Porter Street, LLC, as of October 31, 2015
- 61) Profit and Loss statement for 1 East Porter Street, LLC, January to October 2015
- 62) Balance Sheet for J&J Heavy Equipment, LLC, as of October 31, 2015
- 63) Profit and Loss statement for J&J Heavy Equipment, LLC, January to October 2015
- 64) MCT 2015 Projected Cash Basis Estimate, Existing Unpaid Expenses through 11/30/2015 Statement, and Projected Expenses through 12/01/2015 to June 30, 2016