

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

United States of America; and the
New Jersey Department of
Environmental Protection; the
Commissioner of the New Jersey
Department of Environmental
Protection, as Trustee for Natural
Resources; and the Administrator of
the New Jersey Spill Compensation
Fund,

Plaintiffs,

v.

American Standard Inc., et al.,

Defendants.

CIVIL NO. 1:07 CV 05334 (RBK)

Honorable Robert B. Kugler

**CONSENT DECREE
FOR PERFORMANCE OF PHASE 1 OF THE REMEDIAL ACTION
FOR THE MARTIN AARON SUPERFUND SITE**

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I. BACKGROUND

A. Contemporaneously with the lodging of this Consent Decree, the United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606, 9607.

B. The United States in its complaint seeks, *inter alia*: (1) reimbursement of certain costs incurred by EPA and the Department of Justice for response actions at the Martin Aaron Superfund Site ("Site") in Camden, Camden County, New Jersey, together with accrued interest; and (2) performance of certain response work by the defendants at the Site consistent with the National Contingency Plan, 40 C.F.R. Part 300 (as amended) ("NCP").

C. The New Jersey Department of Environmental Protection ("NJDEP"), and the Commissioner of the New Jersey Department of Environmental Protection, as trustee for natural resources (the "Commissioner"), and the Administrator of the New Jersey Spill Compensation Fund (the "Administrator") (collectively, the "State Plaintiffs"), have also filed a complaint against the Settling Defendants seeking reimbursement of costs incurred by the State Plaintiffs for response actions at the Site and payment for alleged damages for injury to, destruction of, or loss of natural resources within the State resulting from the release or discharge of hazardous substances at the Site, pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 *et seq.*, the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*, and common law.

D. Based on historical records, a number of industrial businesses have operated at the Site at various times since the late 1880s, including leather tanning and glazing businesses.

E. Since 1968 Martin Aaron, Inc. ("Martin Aaron") has held title to the Martin Aaron Property that comprises a major portion of the Site. At various times during the years 1968 to 1994, Drum Service of Camden ("DSC"), Martin Aaron, Westfall-Ace Drum Company ("WADCO"), and Rhodes Drums, Inc. ("Rhodes Drum") operated drum reconditioning businesses at the Site. During the course of business DSC, Martin Aaron, WADCO, and Rhodes Drum disposed of hazardous substances at the Site, which were allegedly generated by a number of companies, including the Settling Defendants.

F. In May 1997, the New Jersey Department of Environmental Protection ("NJDEP") initiated a Remedial Investigation ("RI") to investigate the nature and extent of contamination at the Site. Between May 1997 and March 2000, NJDEP conducted a three-phase RI.

G. In 1999, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, and EPA became the lead agency for the Site.

H. In response to a release or a substantial threat of a release of hazardous substances at or from the Site, EPA commenced in 2000 a Remedial Investigation and Feasibility Study

("RI/FS") for the Site pursuant to 40 C.F.R. § 300.430. In connection with the EPA RI/FS, EPA reviewed available information, including the NJDEP RI, and conducted additional field investigations.

I. RI/FS activities were completed by EPA in June 2005. EPA published notice of the completion of the RI/FS and of the proposed plan for remedial action on August 12, 2005, in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed plan for remedial action.

J. The decision by EPA on the remedial action to be implemented at the Site is embodied in a final Record of Decision ("ROD"), executed on September 30, 2005, to which the State has given its concurrence in a letter dated September 29, 2005. The remedial action selected by EPA in the ROD includes a soils remediation component, a groundwater remediation component, and an institutional controls component.

K. In 2006, EPA conducted a supplemental investigation on the Ponte Equities Property, which is a portion of the Site, and the Rhodes Drum Building portion of the Martin Aaron Property and determined that there is soil contamination at and under the Ponte Equities Property and the Rhodes Drum Building, including, but not limited to, contamination which according to historical records is likely associated with prior tannery operations.

L. In accordance with the NCP and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA notified the State on September 30, 2005, of negotiations with potentially responsible parties regarding the implementation of the remedial design and remedial action for the Site, and EPA has provided the State with an opportunity to participate in such negotiations and be a party to this Consent Decree.

M. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA notified the United States Department of the Interior and the National Oceanic and Atmospheric Administration on January 5, 2007, of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship and encouraged the trustee(s) to participate in the negotiation of this Consent Decree.

N. EPA has determined that the remedial action selected in the ROD should be conducted in two phases to expedite the soils remediation component of the remedial action. The first phase will implement the soils remedy selected in the ROD and certain institutional controls with respect to the areas within the Limits of Soil Remediation as defined herein (Phase 1), and the second phase will address groundwater remediation and other institutional controls (Phase 2). This consent decree provides for performance of Phase 1 of the remedial action by the Settling Performing Defendants.

O. The Settling Defendants do not admit any liability to the Plaintiffs arising out of the transactions or occurrences alleged in the complaints, nor do they acknowledge that the release or threatened release of hazardous substances at or from the Site constitutes an imminent or substantial endangerment to the public health or welfare or the environment. The Settling Federal Agency does not admit any liability arising out of the transactions or occurrences alleged in the complaints or any counterclaim asserted by the Settling Defendants.

P. The Settling Performing Defendants and Settling Non-Performing Defendants, as defined herein, allegedly have contribution claims pursuant to Section 113(f) of CERCLA, 42 U.S.C. § 9613(f), against each other, the substance of which they all deny. The Settling Defendants, as defined herein, allegedly have claims against the Settling Federal Agency, the substance of which the Settling Federal Agency denies.

Q. Settling Performing Defendants, Settling Non-Performing Defendants, and the Plaintiffs, as defined herein, wish to resolve the Plaintiffs' claims against the Settling Defendants, as defined herein, with respect to Phase 1, as well as the Settling Performing Defendants' claims and the Settling Non-Performing Defendants' claims against each other, with respect to Phase 1, without litigation and without affecting or impairing any claims of any Party against any person or entity other than as explicitly stated in this Consent Decree. EPA, the State Plaintiffs, the Settling Defendants, and the Settling Federal Agency wish to resolve claims against the Settling Federal Agency, with respect to Phase 1, without litigation and without affecting or impairing any claims of any Party against any person or entity other than as explicitly stated in this Consent Decree.

R. The Settling Non-Performing Defendants have collectively deposited into a dedicated escrow account initially held by Buchanan Ingersoll & Rooney, PC, attorneys for the Settling Defendants, and then to be held by *de maximis, inc.*, as trustee of the Martin Aaron Superfund Site Qualified Settlement Fund Trust, on behalf of the Settling Non-Performing Defendants, a total amount of \$5,503,932; upon entry of this Consent Decree, all the funds held in the escrow account, including the \$5,503,932, shall be transferred to the Settling Performing Defendants and shall be used in accordance with Paragraph 58.c of this Consent Decree. The United States on behalf of the Settling Federal Agency shall make a payment of \$172,500 to the Settling Performing Defendants following entry of this Consent Decree, which shall be used in accordance with Paragraph 59.a of the Consent Decree.

S. Based on the information presently available to EPA and the State, EPA and the State believe that the Phase 1 Work will be properly and promptly conducted by the Settling Performing Defendants if conducted in accordance with the requirements of this Consent Decree and its appendices.

T. Solely for the purposes of Section 113(j) of CERCLA, Phase 1 of the remedial action selected in the ROD and the Phase 1 Work to be performed by the Settling Performing Defendants shall constitute a response action taken or ordered by the President.

U. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and implementation of this Consent Decree will expedite the cleanup of the Site and will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1367, and 42 U.S.C. §§ 9606, 9607, and 9613(b). This Court also has personal jurisdiction over the Settling Defendants. Solely for the purposes of this Consent

Decree and the underlying complaints, Settling Defendants waive all objections and defenses that they may have to 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 and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree applies to and is binding upon the United States, upon the State Plaintiffs, and upon Settling Defendants and their heirs, successors and assigns. Any change in ownership or corporate status of a 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.

3. Settling Performing Defendants shall provide a copy of this Consent Decree to each contractor hired to perform the Phase 1 Work (as defined below) required by this Consent Decree and to each person representing any Settling Performing Defendant with respect to the Site or the Phase 1 Work and shall condition all contracts entered into hereunder upon performance of the Phase 1 Work in conformity with the terms of this Consent Decree. Settling Performing Defendants or their contractors shall provide written notice of the Consent Decree to all subcontractors hired to perform any portion of the Phase 1 Work required by this Consent Decree. Settling Performing Defendants shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Phase 1 Work contemplated herein in accordance with this Consent Decree. With regard to the activities undertaken pursuant to this Consent Decree, each contractor and subcontractor shall be deemed to be in a contractual relationship with the Settling Performing Defendants within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

IV. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

"Administrator" shall mean the Administrator of the New Jersey Spill Compensation Fund, who is appointed pursuant to N.J.S.A. 58:10-23.11j.

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

"Comarco Property" shall mean the real property identified as Block 460, Lots 3 and 26, in the City of Camden on the tax assessor's map of Camden County, New Jersey and located at 501 Jackson St., Camden, New Jersey.

"Commissioner" shall mean the Commissioner of the New Jersey Department of Environmental Protection in his capacity as trustee for the natural resources within the State of New Jersey or belonging to, managed by, controlled by, held in trust by, or appertaining to, the State.

“Consent Decree” shall mean this Decree and all appendices attached hereto (listed in Section XXIX). In the event of conflict between this Decree and any appendix, this 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 under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall be the effective date of this Consent Decree as provided in Paragraph 116.

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

“Interest,” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

“Interim Response Costs” shall mean all costs, including direct and indirect costs, (a) paid by the United States in connection with the Site between October 1, 2006, and the Effective Date, or (b) incurred prior to the Effective Date but paid after that date.

“Limits of Soil Remediation” shall mean the area of the Site where the Settling Performing Defendants are required to implement the soils remedy selected in the ROD. The Limits of Soil Remediation is defined as that area being approximately 6.539 acres in size which is encompassed by the boundaries specified below, except for the excluded areas specified below.

Boundaries

On the West: by the curb¹ of the sidewalk along the east side of Broadway running from Jackson Street to Everett Street;

On the North: by the curb of the sidewalk along the south side of Everett Street running from Broadway to Sixth Street;

On the East: by the curb of the sidewalk along the west side of Sixth Street running from Everett Street to the point on the curb of the sidewalk on the west side of Sixth Street next to the property boundary between Block 460, Lot 29 (the Ponte Equities Property) and Block 460, Lot 22 (an adjacent residential property currently identified as 553 Jackson Street); and

On the South: by the curb of the sidewalk along the north side of Jackson Street running from Broadway to the point on the curb of the sidewalk next to the property boundary between Block 460, Lot 3 (part of the Comarco Property) and Block 460, Lot 7 (an adjacent residential property currently identified as 521 Jackson Street); then in the northerly direction across the

¹ For the purposes of the definition of the “Limits of Soil Remediation”, where no physical curb exists, “curb” shall mean the line separating the roadway and the sidewalk.

sidewalk to the property boundary between Block 460, Lot 3 and Block 460, Lot 7, then further in the northerly direction along the western property boundary of Block 460, Lot 7 to the intersection of that property boundary with the property line of Block 460, Lot 29 (the Ponte Equities Property); then in the easterly direction along the property boundary between Block 460, Lot 29 and Block 460, Lots 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 19, 20, 21, and 22 (the residential properties adjacent to and south of the Ponte Equities Property), and then east across the sidewalk to the point on the curb of the sidewalk on the west side of Sixth Street next to the property boundary between Block 460, Lot 29 and Block 460, Lot 22.

Excluded Areas

The term Limits of Soil Remediation specifically excludes:

- The area beneath the three-story brick building currently existing on Block 460, Lot 29 (the Ponte Equities Property), including demolition of that building, subsurface soils remediation under that building, and any investigation or remediation within that building;
- The area beneath the building currently existing on Block 460, Lot 4 (portion of the Scrapyard Property), including demolition of that building, investigation of any soil contamination beneath that building or the subsurface soils remediation under that building; and
- The area beneath the buildings currently existing on Block 460, Lots 3 and 26 (the Comarco Property), including investigation of any soil contamination beneath these buildings or the subsurface soils remediation under these buildings.

Wherever the phrase “outside of the Limits of Soil Remediation” is used in this Consent Decree, these Excluded Areas as specified above shall be considered outside of the Limits of Soil Remediation.

A map of the “Limits of Soil Remediation” is attached hereto as Appendix C.

“Martin Aaron Property” shall mean the real property identified as Block 460, Lot 1, in the City of Camden on the tax assessor’s map of Camden County, New Jersey and located at 1542 Broadway, Camden, New Jersey.

“Martin Aaron Superfund Site Special Account” shall mean the special account established at the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3), and this Consent Decree.

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

“NJDEP” shall mean the New Jersey Department of Environmental Protection and any successor departments or agencies of the State.

“Owner” shall mean: Martin Aaron, Inc. with respect to the Martin Aaron Property; Ponte Equities, Inc. with respect to the Ponte Equities Property; Thomas E. Hoversen and Karen G. Hoversen with respect to the Comarco Property; Calogera C. Ackerle and the Estate of George Ackerle with respect to the Scrapyard Property, and the City of Camden, N.J., with respect to the

sidewalks up to and including the curb between the individual property lines and 6th St., Everett St., and Broadway on the east, north, and west sides of Block 460 in the City of Camden on the tax assessor's map of Camden County, New Jersey.

"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, the State Plaintiffs, and the Settling Defendants.

"Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through September 30, 2006, plus Interest on all such costs which has accrued pursuant to 42 U.S.C. § 9607(a) through such date. Based on EPA and U.S. Department of Justice accounting, the United States paid an estimated amount of at least \$3,545,214 in connection with the Site through September 30, 2006.

"Performance Standards" shall mean the cleanup standards and other measures of achievement of the goals of the soils remediation and institutional controls components of the remedial action selected in the ROD, including the standards and other measures of achievement set forth or referenced on pages 16-18, 22, 23, 32, and 43-44 of the ROD, Appendix II, Table 6 of the ROD, and Appendix II, Table 10 of the ROD, and/or Section II of the SOW. The State of New Jersey has concurred in the ROD, including the Performance Standards contained in Appendix II, Table 6 for the Site.

"Phase 1 Future Oversight Costs" shall mean that portion of Phase 1 Future Response Costs, including, but not limited to, direct and indirect costs, that EPA incurs in monitoring and supervising Settling Performing Defendants' performance of the Phase 1 Work to determine whether such performance is consistent with the requirements of this Consent Decree, including costs incurred in reviewing plans, reports and other documents submitted pursuant to this Consent Decree, as well as costs incurred in overseeing implementation of the Phase 1 Work; however, Phase 1 Future Oversight Costs do not include: the costs incurred by the United States pursuant to Sections VII (Remedy Review), Paragraph 27 of Section IX (Access and Institutional Controls), Section XV (Emergency Response), and Paragraph 91 of Section XXI (Work Takeover), or the costs incurred by the United States in enforcing the terms of this Consent Decree, including all costs incurred in connection with Dispute Resolution pursuant to Section XIX (Dispute Resolution) and all litigation costs.

"Phase 1 Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Consent Decree, verifying the Phase 1 Work, or otherwise implementing, overseeing, or enforcing this Consent Decree, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Section VII, Paragraph 27 of Section IX (including, but not limited to, the cost of attorney time and any monies paid to secure access and/or to secure or implement institutional controls including, but not limited to, the amount of just compensation), Section XV, and Paragraph 91 of Section XXI. Phase 1 Future Response Costs shall also include all Interim Response Costs.

"Phase 1 Operation and Maintenance" or "Phase 1 O & M" shall mean all activities required to maintain the effectiveness of the Phase 1 Remedial Action as required under the

Phase 1 Operation and Maintenance Plan approved or developed by EPA pursuant to this Consent Decree and the Statement of Work (SOW).

“Phase 1 Remedial Action” shall mean those activities, except for Phase 1 Remedial Design and Phase 1 Operation and Maintenance, to be undertaken by the Settling Performing Defendants to implement the soils remedy selected in the ROD within the Limits of Soil Remediation, together with associated institutional controls selected in the ROD with respect to the areas within the Limits of Soil Remediation, in accordance with the SOW and the final Phase 1 Remedial Design and Phase 1 Remedial Action Work Plans and other Phase 1 plans approved by EPA. The Phase 1 Remedial Action consists of the activities listed in Subparagraph 13.b of the Consent Decree. The soils remedy selected in the ROD pertains to the Site and is not restricted to the Limits of Soil Remediation within the Site. However, the Settling Defendants are not required to fund or perform, and the Phase 1 Remedial Action does not include, implementation of the soils remedy selected in the ROD in areas outside of the Limits of Soil Remediation.

“Phase 1 Remedial Action Work Plan” shall mean the document developed pursuant to Paragraph 11 of this Consent Decree and approved by EPA, and any amendments thereto.

“Phase 1 Remedial Design” shall mean those activities to be undertaken by the Settling Performing Defendants to develop the final plans and specifications for the Phase 1 Remedial Action pursuant to the Phase 1 Remedial Design Work Plan.

“Phase 1 Remedial Design Work Plan” shall mean the document developed pursuant to Paragraph 10 of this Consent Decree and approved by EPA, and any amendments thereto.

“Phase 1 Work” shall mean all activities Settling Performing Defendants are required to perform under this Consent Decree, including the Phase 1 Remedial Design, the Phase 1 Remedial Action, and the Phase 1 Operation and Maintenance, except those required by Section XXV (Retention of Records).

“Plaintiffs” shall mean the United States and the State Plaintiffs.

“Ponte Equities Property” shall mean the real property identified as Block 460, Lot 29, in the City of Camden on the tax assessor’s map of Camden County, New Jersey and located at 1565-1575 6th Street, Camden, New Jersey.

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

“Record of Decision” or “ROD” shall mean the EPA Record of Decision relating to the Site signed on September 30, 2005, by the Regional Administrator, EPA Region II, or his/her delegate, and all attachments thereto. The ROD is attached as Appendix A.

“Rhodes Drum Building” shall mean the one-story building currently located on the Martin Aaron Property as reflected in the map attached as Appendix C.

“Scrapyard Property” shall mean the real property identified as Block 460, Lots 2 and 4, in the City of Camden on the tax assessor’s map of Camden County, New Jersey and located at 522 Everett St. and 1500 Broadway, Camden, New Jersey.

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

“Settling Defendants” shall mean those Parties identified in Appendix E. Settling Defendants shall also include the successors-in-interest, shareholders, and parent corporations of the named Settling Defendants, but only to the extent that the alleged liability with respect to the Martin Aaron Site under CERCLA of the successor-in-interest, shareholder, or parent corporation is based on its status and in its capacity as the successor-in-interest, shareholder, or parent corporation of the named Settling Defendant and not to the extent that the alleged liability of the successor-in-interest, shareholder, or parent corporation with respect to the Martin Aaron Site under CERCLA arose independently of its status and capacity as a successor-in-interest, shareholder, or parent corporation of the named Settling Defendant.

“Settling Federal Agency” shall mean the United States Department of Defense, including all of its departments, offices, agencies, activities, commands, and instrumentalities, including without limitation, the United States Department of the Navy, the United States Department of the Army, and the Defense Logistics Agency.

“Settling Non-Performing Defendants” shall mean the Settling Defendants identified in Appendix F.

“Settling Performing Defendants” shall mean the Settling Defendants identified in Appendix G.

“Site” shall mean the Martin Aaron Superfund Site, encompassing Block 460, Lots 1, 2, 3, 4, 26, and 29, in the City of Camden on the tax map of Camden County and various adjacent right-of-way locations and any area into which hazardous substances have migrated therefrom. Block 460, Lot 1, is the Martin Aaron Property; Block 460, Lots 2 and 4, is the Scrapyard Property; Block 460, Lots 3 and 26, is the Comarco Property; and Block 460, Lot 29, is the Ponte Equities Property. The various adjacent right-of-way locations include the areas between the property line of these properties and 6th St., Everett St., and Broadway. A copy of a map showing Block 460, Lots 1, 2, 3, 4, 26, and 29, and the streets around Block 460, is attached as Appendix D.

“Spill Act” shall mean the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to 23.24.

“Spill Fund” shall mean the New Jersey Spill Compensation Fund established pursuant to N.J.S.A. 58:10-23.11i.

“State” shall mean the State of New Jersey.

“State Interim Response Costs” shall mean all costs, including direct and indirect costs, (a) paid by the State in connection with the Site between July 11, 2007, and the Effective Date, or (b) incurred prior to the Effective Date but paid after that date.

“State Natural Resource Damages” shall mean any and all natural resource damages recoverable by the State Plaintiffs under Section 107 of CERCLA, 42 U.S.C. § 9607, the Spill Act, N.J.S.A. 58:10-23.11 *et seq.*, any other New Jersey statute, and common law for injury to, destruction of, or loss of natural resources, including groundwater, within the State resulting from the release or discharge of hazardous substances at the Martin Aaron Property, the Scrapyard Property, the Comarco Property, and the Ponte Equities Property. Such damages shall

include any and all compensation recoverable by the State Plaintiffs for lost use of natural resources resulting from such release or discharge.

“State Past Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the State paid at or in connection with the Site through July 10, 2007, plus Interest on all such costs which has accrued pursuant to 42 U.S.C. § 9607(a) through such date.

“State Phase 1 Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the State incurs in reviewing or developing plans, reports and other items pursuant to this Consent Decree, verifying the Phase 1 Work, or otherwise implementing, overseeing, or enforcing this Consent Decree, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Section VII, Paragraph 27 of Section IX (including, but not limited to, the cost of attorney time and any monies paid to secure access and/or to secure or implement institutional controls including, but not limited to, the amount of just compensation), Section XV, and Paragraph 91 of Section XXI. State Phase 1 Future Response Costs shall also include all State Interim Response Costs, but shall not include State Past Response Costs.

“State Plaintiffs” shall mean the Administrator; Commissioner, as trustee for natural resources within the State or belonging to, managed by, controlled by, held in trust by, or appertaining to, the State; and NJDEP, or any successor thereto.

“Statement of Work” or “SOW” shall mean the statement of work for implementation of the Phase 1 Remedial Design, Phase 1 Remedial Action, and Phase 1 Operation and Maintenance at the Site, as set forth in Appendix B to this Consent Decree and any modifications made in accordance with this Consent Decree.

“Supervising Contractor” shall mean the principal contractor retained by the Settling Defendants to supervise and direct the implementation of the Phase 1 Work under this Consent Decree.

“United States” shall mean the United States of America, including all of its departments, agencies, and instrumentalities, which includes without limitation EPA, the Settling Federal Agency and any federal natural resources trustee.

“VOCs” shall mean volatile organic compounds.

“Waste Material” shall mean (1) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33), 42 U.S.C. § 9601(33); (3) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4) “hazardous substances” as defined in N.J.S.A. 58:10-23.11b and N.J.A.C. 7:1E-1.6, 1.7 and Appendix A.

V. GENERAL PROVISIONS

5. Objectives of the Parties. The objectives of the Parties in entering into this Consent Decree are to protect public health or welfare or the environment at the Site by the design and implementation of certain response actions – referenced herein as the Phase 1 Work – at the Site by the Settling Performing Defendants, to reimburse certain response costs of the

Plaintiffs as set forth herein, to provide compensation to NJDEP and the Commissioner for State Natural Resource Damages, to resolve certain claims of Plaintiffs against Settling Defendants as provided in this Consent Decree, to resolve certain claims of EPA and the State Plaintiffs against the Settling Federal Agency as provided in this Consent Decree, to resolve certain claims in contribution of the Settling Performing Defendants against the Settling Non-Performing Defendants as provided in this Consent Decree, and to resolve certain counterclaims of the Settling Defendants against the United States as provided in this Consent Decree.

6. Commitments by Settling Defendants and Settling Federal Agency.

a. Settling Performing Defendants shall finance and perform the Phase 1 Work in accordance with this Consent Decree, the ROD, the SOW, and all work plans and other plans, standards, specifications, and schedules set forth herein or developed by Settling Performing Defendants and approved by EPA pursuant to this Consent Decree. Settling Performing Defendants shall also reimburse the United States for Past Response Costs and Future Response Costs as provided in this Consent Decree and the State for State Past Response Costs and State Future Response Costs as provided in this Consent Decree and make the payment specified in Paragraph 54.c in regard to State Natural Resource Damages.

b. The obligations of Settling Performing Defendants to finance and perform the Phase 1 Work and to pay amounts owed the United States and the State under this Consent Decree are joint and several. In the event of the insolvency or other failure of any one or more Settling Performing Defendants to implement the requirements of this Consent Decree, the remaining Settling Performing Defendants shall complete all such requirements.

c. Each Settling Non-Performing Defendant has deposited into a dedicated escrow account initially held by Buchanan Ingersoll & Rooney, PC, attorneys for the Settling Defendants, and then to be held by *de maximis, inc.*, as trustee of the Martin Aaron Superfund Site Qualified Settlement Fund Trust, on behalf of the Settling Non-Performing Defendants, its respective share of \$5,503,932, which share is specified in a separate agreement between the Settling Performing Defendants and the Settling Non-Performing Defendants. The Settling Non-Performing Defendants shall direct the trustee to transfer the funds held in the escrow account to the Settling Performing Defendants within ten (10) days after the entry of the Consent Decree. Subject to the United States' and State Plaintiffs' reservations of rights set forth in Section XXI (Covenants by Plaintiffs) and except as otherwise specifically provided in this Consent Decree, the obligations of the Settling Non-Performing Defendants under this Consent Decree shall be limited to the required payment of money to the Settling Performing Defendants pursuant to Paragraph 58 of this Consent Decree.

d. The United States, on behalf of the Settling Federal Agency, shall make the payment required under Paragraph 59 in accordance with the terms thereof. Subject to the United States' and State Plaintiffs' reservations of rights set forth in Section XXI (Covenants by Plaintiffs) and except as otherwise specifically provided in this Consent Decree, the obligations of the Settling Federal Agency under this Consent Decree shall be limited to the required payment of money to the Settling Performing Defendants pursuant to Paragraph 59 of this Consent Decree.

7. Compliance With Applicable Law. All activities undertaken by Settling Performing Defendants pursuant to this Consent Decree shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. Settling Performing Defendants must also comply with all applicable or relevant and appropriate requirements of all Federal and state environmental laws as set forth in the ROD and the SOW. The activities conducted pursuant to this Consent Decree, if approved by EPA, shall be considered to be consistent with the NCP.

8. Permits.

a. As provided in Section 121(e) of CERCLA and Section 300.400(e) of the NCP, no permit shall be required for any portion of the Phase 1 Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Phase 1 Work). Where any portion of the Phase 1 Work that is not on-site requires a federal or state permit or approval, Settling Performing Defendants shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. The Settling Performing Defendants may seek relief under the provisions of Section XVIII (Force Majeure) of this Consent Decree for any delay in the performance of the Phase 1 Work resulting from a failure to obtain, or a delay in obtaining, any permit required for the Phase 1 Work.

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

VI. PERFORMANCE OF THE WORK BY SETTLING PERFORMING DEFENDANTS

9. Selection of Supervising Contractor.

a. All aspects of the Phase 1 Work to be performed by Settling Performing Defendants pursuant to Sections VI (Performance of the Work by Settling Performing Defendants), VII (Remedy Review), VIII (Quality Assurance, Sampling and Data Analysis), and XV (Emergency Response) of this Consent Decree shall be under the direction and supervision of the Supervising Contractor, the selection of which shall be subject to disapproval by EPA after a reasonable opportunity for review and comment by the State. Within 30 days after the lodging of this Consent Decree, Settling Performing Defendants shall notify EPA and the State in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor. With respect to any contractor proposed to be Supervising Contractor, Settling Performing Defendants shall demonstrate that the proposed contractor has a quality system that complies with ANSI/ASQC E4-1994, "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/B-01/002, March 2001) or equivalent documentation as determined by EPA. EPA will issue a notice of disapproval or an authorization to proceed. If at any time thereafter, Settling Performing Defendants propose to

change a Supervising Contractor, Settling Performing Defendants shall give such notice to EPA and the State and must obtain an authorization to proceed from EPA, after a reasonable opportunity for review and comment by the State, before the new Supervising Contractor performs, directs, or supervises any Phase I Work under this Consent Decree.

b. If EPA disapproves a proposed Supervising Contractor, EPA will notify Settling Performing Defendants in writing. Settling Performing Defendants shall submit to EPA and the State a list of at least three (3) contractors, including the qualifications of each contractor, that would be acceptable to them within 30 days of receipt of EPA's disapproval of the contractor previously proposed. EPA will provide written notice of the names of any contractor(s) that it disapproves and an authorization to proceed with respect to any of the other contractors. Settling Performing Defendants may select any contractor from that list that is not disapproved and shall notify EPA and the State of the name of the contractor selected within 30 days of EPA's authorization to proceed.

c. If EPA fails to provide written notice of its authorization to proceed or disapproval as provided in this Paragraph and this failure prevents the Settling Performing Defendants from meeting one or more deadlines in a plan approved by the EPA pursuant to this Consent Decree, Settling Performing Defendants may seek relief under the provisions of Section XVIII (Force Majeure) hereof.

10. Phase I Remedial Design.

a. Within forty-five (45) days after EPA's issuance of an authorization to proceed pursuant to Paragraph 9, Settling Performing Defendants shall submit to EPA and the State a work plan for the design of the Phase 1 Remedial Action at the Site ("Phase 1 Remedial Design Work Plan" or "Phase 1 RD Work Plan"). The Phase 1 Remedial Design Work Plan shall provide for design of the Phase 1 Remedial Action portion of the remedy set forth in the ROD, in accordance with the SOW and for achievement of the Performance Standards and other requirements relating to that work set forth in the ROD, this Consent Decree and/or the SOW. Upon its approval by EPA, the Phase 1 Remedial Design Work Plan shall be incorporated into and become enforceable under this Consent Decree. Within forty-five (45) days after EPA's issuance of an authorization to proceed, the Settling Performing Defendants shall submit to EPA and the State a Health and Safety Plan for field design activities which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Phase 1 Remedial Design Work Plan shall include plans and schedules for implementation of all remedial design and pre-design tasks identified in the SOW.

c. In accordance with Section IV of the SOW, during the Phase 1 Remedial Design, sampling shall be conducted to determine the extent of the soils contamination within the Limits of Soil Remediation adjacent to the three-story Ponte Equities Building, adjacent to the buildings on the Comarco Property, and adjacent to the building on the Scrapyard property, and an evaluation shall be conducted of what measures are necessary, if any, to assure that excavation will not adversely affect the structural integrity of the three-story building on the Ponte Equities Property, the buildings on the Comarco Property, and the building on the Scrapyard Property.

d. Upon approval of the Phase 1 Remedial Design Work Plan by EPA, after a reasonable opportunity for review and comment by the State, and submittal of the Health and Safety Plan for all field activities to EPA and the State, Settling Performing Defendants shall implement the Phase 1 Remedial Design Work Plan. The Settling Performing Defendants shall submit to EPA and the State all plans, submittals and other deliverables required under the approved Phase 1 Remedial Design Work Plan in accordance with the approved schedule for review and approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, Settling Performing Defendants shall not commence further Remedial Design activities at the Site prior to approval of the Phase 1 Remedial Design Work Plan.

e. The preliminary design submittal shall include, at a minimum, the preliminary design requirements identified in the SOW.

f. The intermediate design submittal, if required by EPA or if independently submitted by the Settling Defendants, shall be a continuation and expansion of the preliminary design. Any value engineering proposals must be identified and evaluated during this review.

g. The pre-final/final design submittal shall include, at a minimum, the pre-final/final design requirements identified in the SOW.

11. Phase 1 Remedial Action.

a. Within forty five (45) days after the approval of the final design submittal, or within forty five (45) days of entry of the Consent Decree, whichever is later, Settling Performing Defendants shall award a contract for the remedial action as set forth in the SOW.

b. Within forty five (45) days of the award of the contract for the remedial action, Settling Performing Defendants shall submit to EPA and the State a work plan for the performance of the Phase 1 Remedial Action at the Site ("Phase 1 Remedial Action Work Plan"). The Phase 1 Remedial Action Work Plan shall provide for construction and implementation of the soils remediation and institutional controls components of the remedy set forth in the ROD and achievement of the Performance Standards with respect to the areas within the Limits of Soil Remediation, in accordance with this Consent Decree, the ROD, the SOW, and the design plans and specifications developed in accordance with the Phase 1 Remedial Design Work Plan and approved by EPA. Upon its approval by EPA, the Phase 1 Remedial Action Work Plan shall be incorporated into and become enforceable under this Consent Decree. At the same time as they submit the Phase 1 Remedial Action Work Plan, Settling Performing Defendants shall submit to EPA and the State a Health and Safety Plan for field activities required by the Phase 1 Remedial Action Work Plan which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

c. Upon approval of the Phase 1 Remedial Action Work Plan by EPA, after a reasonable opportunity for review and comment by the State, Settling Performing Defendants shall implement the activities required under the Phase 1 Remedial Action Work Plan. The Settling Performing Defendants shall submit to EPA and the State all plans, submittals, or other deliverables required under the approved Phase 1 Remedial Action Work Plan in accordance

with the approved schedule for review and approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, Settling Performing Defendants shall not commence physical Phase 1 Remedial Action activities at the Site prior to approval of the Phase 1 Remedial Action Work Plan.

12. The Settling Performing Defendants shall continue to implement the Phase 1 Remedial Action and Phase 1 O&M until the Performance Standards are achieved and for so long thereafter as is otherwise required under this Consent Decree. Upon approval of the Phase 1 O&M Plan, it shall be incorporated into and become enforceable under this Consent Decree.

13. Modification of the SOW or Related Work Plans.

a. If EPA determines that modification to the work specified in the SOW and/or in work plans developed pursuant to the SOW is necessary to achieve and maintain the Performance Standards or to carry out and maintain the effectiveness of the soils remediation and institutional controls components of the remedy set forth in the ROD with respect to areas within the Limits of Soil Remediation, EPA may require that such modification be incorporated in the SOW and/or such work plans, provided, however, that a modification may only be required pursuant to this Paragraph to the extent that it is consistent with the scope of the soils remediation and institutional controls components of the remedy selected in the ROD with respect to areas within the Limits of Soil Remediation.

b. For the purposes of this Paragraph 13 and Paragraph 50 and Paragraph 51 only, the "scope of the soils remediation and institutional controls components of the remedy selected in the ROD with respect to the areas within the Limits of Soil Remediation" is: (1) demolition and removal of the Rhodes Drum Building on the Martin Aaron Property, the one story building on the Ponte Equities Property, and any structure attached thereto other than the three-story building on the Ponte Equities Property; (2) sampling and analysis to further determine the levels and extent of contamination of soils within the Limits of Soil Remediation; (3) excavation of soils within the Limits of Soil Remediation such that all soils that contain arsenic at concentrations of greater than 300 ppm and/or total VOCs at concentrations of greater than 1 ppm are excavated; (4) off-site transportation and disposal of contaminated soil and debris, with treatment of all RCRA-hazardous wastes prior to land disposal, as necessary; (5) backfilling and grading of all excavated areas with clean fill; (6) capping of the residual soil contamination at the Site located within the Limits of Soil Remediation that exceeds one or more of the Direct Contact Cleanup Goals set forth in Appendix II, Table 6 of the ROD; (7) groundwater monitoring of certain existing Site wells designated by EPA during the period of the Phase 1 RD/RA, (8) implementation of institutional controls with respect to areas within the Limits of Soil Remediation including, but not limited to, deed notices and a Classification Exception Area to, *inter alia*, prevent exposure to residual soils that may exceed levels that would allow for unrestricted use and to restrict the installation of wells and the use of groundwater in the area of groundwater contamination, (9) operation and maintenance of the soils remedy, including monitoring and maintenance of the cap, and activities to maintain the institutional controls, and (10) all activities necessary to the implementation of the foregoing response actions.

c. If Settling Performing Defendants object to any modification determined by EPA to be necessary pursuant to this Paragraph, they may seek dispute resolution pursuant to Section XIX (Dispute Resolution), Paragraph 70 (record review). The SOW and/or related work plans shall be modified in accordance with final resolution of the dispute.

d. Settling Performing Defendants shall implement any work required by any modifications incorporated in the SOW and/or in work plans developed pursuant to the SOW in accordance with this Paragraph.

e. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions as otherwise provided in this Consent Decree.

14. Settling Defendants acknowledge and agree that nothing in this Consent Decree, the SOW, or the Phase 1 Remedial Design or Phase 1 Remedial Action Work Plans constitutes a warranty or representation of any kind by Plaintiffs that compliance with the work requirements set forth in the SOW and the Phase 1 Work Plans will achieve the Performance Standards.

15. a. Settling Performing Defendants shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving facility's state and to the EPA Remedial Project Manager of such shipment of Waste Material. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

(1) The Settling Performing Defendants shall include in the written notification the following information, where available: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. The Settling Performing Defendants shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

(2) The identity of the receiving facility and state will be determined by the Settling Performing Defendants following the award of the contract for Phase 1 Remedial Action construction. The Settling Performing Defendants shall provide the information required by Paragraph 15.a as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Settling Performing Defendants shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3) and 40 C.F.R. 300.440. Settling Performing Defendants shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulations cited in the preceding sentence.

VII. REMEDY REVIEW

16. Periodic Review. Settling Performing Defendants shall conduct any studies and investigations as requested by EPA, in order to permit EPA to conduct reviews of whether the Phase 1 Remedial Action is protective of human health and the environment at least every five years as required by Section 121(c) of CERCLA and any applicable regulations.

17. EPA Selection of Further Response Actions. If EPA determines, at any time, that the Phase 1 Remedial Action is not protective of human health and the environment, EPA may select further soils remediation and institutional controls response actions for the areas within the Limits of Soil Remediation in accordance with the requirements of CERCLA and the NCP. The foregoing sentence is not intended to preclude the EPA from selecting soils remediation and institutional controls response actions for areas outside the Limits of Soils Remediation at the Site, but such soil remediation and institutional controls response actions are not within the scope of Paragraph 19 below and are subject to the provisions of Section XXI (Covenants by Plaintiffs).

18. Opportunity To Comment. Settling Performing Defendants and, if required by Sections 113(k)(2) or 117 of CERCLA, the public, will be provided with an opportunity to comment on any further response actions proposed by EPA as a result of the review conducted pursuant to Section 121(c) of CERCLA and to submit written comments for the record during the comment period.

19. Settling Performing Defendants' Obligation To Perform Further Response Actions. If EPA selects further soils remediation and/or institutional controls response actions for areas within the Limits of Soil Remediation, the Settling Performing Defendants shall undertake such further response actions to the extent that the reopener conditions in Paragraph 87 or 88 (United States' reservations of liability based on unknown conditions or new information) are satisfied. Settling Performing Defendants may invoke the procedures set forth in Section XIX (Dispute Resolution) to dispute (1) EPA's determination that the reopener conditions of Paragraph 87 or 88 of Section XXI (Covenants by Plaintiffs) are satisfied, (2) EPA's determination that the Phase 1 Remedial Action is not protective of human health and the environment or (3) EPA's selection of the further response actions. Disputes pertaining to whether the Phase 1 Remedial Action is protective or to EPA's selection of further response actions shall be resolved pursuant to Paragraph 70 (record review).

20. Submissions of Plans. If Settling Performing Defendants are required to perform the further response actions pursuant to Paragraph 19, they shall submit a plan for such work to EPA for approval in accordance with the procedures set forth in Section VI (Performance of the Work by Settling Performing Defendants) and shall implement the plan approved by EPA in accordance with the provisions of this Decree.

VIII. QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS

21. Settling Performing Defendants shall use quality assurance, quality control, and chain of custody procedures for all treatability, design, compliance and monitoring samples in accordance with "EPA Requirements for Quality Assurance Project Plans (QA/R5)"

(EPA/240/B-01/003, March 2001), "Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998), and subsequent amendments to such guidelines upon notification by EPA to Settling Performing Defendants of such amendment. Amended guidelines shall apply only to procedures conducted after such notification. Prior to the commencement of any monitoring project under this Consent Decree, Settling Performing Defendants shall submit to EPA for approval, after a reasonable opportunity for review and comment by the State, a Quality Assurance Project Plan ("QAPP") that is consistent with the SOW, the NCP and applicable guidance documents. If relevant to the proceeding, the Parties agree that validated sampling data generated in accordance with the QAPP(s) and reviewed and approved by EPA shall be admissible as evidence, without objection, in any proceeding under this Decree. Settling Performing Defendants shall ensure that EPA and State personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Settling Performing Defendants in implementing this Consent Decree. In addition, Settling Performing Defendants shall ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPP for quality assurance monitoring. Settling Performing Defendants shall ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Decree perform all analyses according to accepted EPA methods. Accepted EPA methods consist of those methods which are documented in the "Contract Lab Program Statement of Work for Inorganic Analysis" and the "Contract Lab Program Statement of Work for Organic Analysis," dated February 1988, and any amendments made thereto during the course of the implementation of this Decree; however, upon approval by EPA, after opportunity for review and comment by the State, the Settling Performing Defendants may use other analytical methods which are as stringent as or more stringent than the CLP- approved methods. Settling Performing Defendants shall ensure that all laboratories they use for analysis of samples taken pursuant to this Consent Decree participate in an EPA or EPA-equivalent QA/QC program. Settling Performing Defendants shall only use laboratories that have a documented Quality System which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program (NELAP) as meeting the Quality System requirements. Settling Performing Defendants shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Decree will be conducted in accordance with the procedures set forth in the QAPP approved by EPA.

22. Upon request, the Settling Performing Defendants shall allow split or duplicate samples to be taken by EPA and the State or their authorized representatives. Settling Performing Defendants shall notify EPA and the State not less than 28 days in advance of any sample collection activity unless shorter notice is agreed to by EPA. In addition, EPA and the State shall have the right to take any additional samples that EPA or the State deem necessary. Upon request, EPA and the State shall allow the Settling Performing Defendants to take split or duplicate samples of any samples they take as part of the Plaintiffs' oversight of the Settling Performing Defendants' implementation of the Phase 1 Work.

23. Settling Performing Defendants shall submit to EPA and the State two (2) copies of the results of all sampling and/or tests or other data obtained or generated by or on behalf of Settling Performing Defendants with respect to the Site and/or the implementation of this Consent Decree unless EPA agrees otherwise.

24. Notwithstanding any provision of this Consent Decree, the United States and the State hereby retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA and any other applicable statutes or regulations.

IX. ACCESS AND INSTITUTIONAL CONTROLS

25. If any of the properties at the Site, or any other property where access and/or land/water use restrictions are needed to implement this Consent Decree, is owned or controlled by any of the Settling Defendants, such Settling Defendants shall:

a. commencing on the date of lodging of this Consent Decree, provide the United States, the State, and their representatives, including EPA and NJDEP and their contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Consent Decree including, but not limited to, the following activities:

- (1) Monitoring the Phase 1 Work;
- (2) Verifying any data or information submitted to the United States or the State;
- (3) Conducting investigations relating to contamination at or near the Site;
- (4) Obtaining samples;
- (5) Assessing the need for, planning, or implementing additional response actions at or near the Site;
- (6) Assessing implementation of quality assurance and quality control practices as defined in the approved Quality Assurance Project Plans;
- (7) Implementing the Phase 1 Work pursuant to the conditions set forth in Paragraph 9I of this Consent Decree;
- (8) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Performing Defendants or their agents, consistent with Section XXIV (Access to Information);
- (9) Assessing Settling Performing Defendants' compliance with this Consent Decree; and
- (10) Determining whether any of the properties at the Site or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Consent Decree.

b. commencing on the date of lodging of this Consent Decree, refrain from using any property at the Site, or such other 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. Such restrictions include, but are not limited to, prohibition of (a) the residential use of the property, (b) the conduct of any activities (such as excavation) at the property that will injure or threaten injury to the integrity of remedial measures or monitoring structures on the property, including but not limited to any caps or wells on the property, (c) the construction of new buildings on the property that lack soil vapor mitigation systems, and (d) the use of groundwater at the property for potable purposes.

c. within 90 days of a request by EPA, implement, together with Settling Performing Defendants, the execution and recordation of deed notice(s) which (1) require the owner, subsequent owners, lessees, and operators to refrain from using property at the Site in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial measures performed or to be performed pursuant to this Consent Decree, (2) grant access rights to Settling Performing Defendants, EPA, NJDEP and their representatives for the purpose of conducting any activity relating to construction, operation, or maintenance of remedial measures at the Site, and (3) grant the right to enforce restrictions that EPA has determined are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures at the Site. Prior to recordation and within 45 days of a request by EPA, such Settling Defendant(s), together with Settling Performing Defendants, shall submit the deed notice(s) to EPA for final approval. In accordance with N.J.S.A. 58:10B-13, the deed notice(s) shall be filed in the same manner as deeds and other interests in real property in the State of New Jersey.

d. if EPA so requests, implement, together with Settling Performing Defendants, the execution and recordation in the Office of the County Clerk of Camden County, New Jersey of an easement, running with the land, that (i) 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 25.a of this Consent Decree, and (ii) grants the right to enforce the land/water use restrictions listed in Paragraph 25.b of this Consent Decree, or other restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree. The access rights and/or rights to enforce land/water use restrictions shall be granted to one or more of the following persons, as determined by EPA: (i) the United States, on behalf of EPA, and its representatives, (ii) the State and its representatives, (iii) the Settling Performing Defendants and their representatives, and/or (iv) other appropriate grantees. Within 45 days of the date of EPA's request, Settling Defendants who own or control any of the properties at the Site, or any other property where access and/or land/water use restrictions are needed to implement this Consent Decree, and Settling Performing Defendants shall submit to EPA for review and approval with respect to each such property:

- (1) A draft easement, in substantially the form attached hereto as Appendix H, that is enforceable under the laws of the State of New Jersey, and

(2) A current title insurance commitment, or some other evidence of title acceptable to EPA, which shows title to the land described in the easement to be free and clear of all prior liens and encumbrances, (a) except for the liens and/or encumbrances listed in Appendix I, (b) except when such prior liens or encumbrances are approved by EPA, or (c) except when, despite best efforts, such Settling Defendant(s), together with Settling Performing Defendants, are unable to obtain release or subordination of such prior liens or encumbrances.

Within 15 days of EPA's approval and acceptance of the easement and the title evidence, such Settling Defendant(s), together with Settling Performing Defendants, 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, the easement shall be recorded with the Office of the County Clerk of Camden County. Within 30 days of the recording of the easement, such Settling Defendant(s), together with Settling Performing Defendants, shall provide EPA with a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded easement showing the clerk's recording stamps. If the easement is to be conveyed to the United States, the easement and title evidence (including final title evidence) shall be prepared in accordance with the U.S. Department of Justice Title Standards 2001, and approval of the sufficiency of title must be obtained as required by 40 U.S.C. § 255.

26. If any property at the Site, or any other property where access and/or land/water use restrictions are needed to implement this Consent Decree, is owned or controlled by persons other than any of the Settling Performing Defendants, Settling Performing Defendants shall use best efforts to secure from such persons:

a. within 45 days of a request by EPA, an agreement to provide access thereto for Settling Performing Defendants, as well as for the United States on behalf of EPA, and the State, as well as their representatives (including contractors), for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 25.a of this Consent Decree;

b. within 45 days of a request by EPA, an agreement, enforceable by the Settling Performing Defendants and the United States, to refrain from using any property at the Site, or such other 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. Such restrictions include, but are not limited to, prohibition of (a) the residential use of the property, (b) the conduct of any activities (such as excavation) at the property that will injure or threaten injury to the integrity of remedial measures or monitoring structures on the property, including but not limited to any caps or wells on the property, (c) the construction of new buildings on the property that lack soil vapor mitigation systems, and (d) the use of groundwater at the property for potable purposes.

c. within 90 days of a request by EPA, the execution and recordation of deed notice(s) which (1) require the owner, subsequent owners, lessees, and operators to refrain from using property at the Site in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial measures performed or to be performed pursuant to this Consent Decree, (2) grant access rights to Settling Performing Defendants, EPA, NJDEP and their representatives for the purpose of conducting any activity

relating to construction, operation, or maintenance of remedial measures at the Site, and (3) grant the right to enforce restrictions that EPA has determined are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures at the Site. Prior to recordation and within 45 days of a request by EPA, Settling Performing Defendants shall submit the deed notice(s) to EPA for final approval. In accordance with N.J.S.A. 58:10B-13, the deed notice(s) shall be filed in the same manner as deeds and other interests in real property in the State of New Jersey.

d. if EPA so requests, the execution and recordation in the Office of the County Clerk of Camden County, New Jersey of an easement, running with the land, that (i) 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 25.a of this Consent Decree, and (ii) grants the right to enforce the land/water use restrictions listed in Paragraph 26.b of this Consent Decree, or other restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree. The access rights and/or rights to enforce land/water use restrictions shall be granted to one or more of the following persons, as determined by EPA: (i) the United States, on behalf of EPA, and its representatives, (ii) the State and its representatives, (iii) the Settling Performing Defendants and their representatives, and/or (iv) other appropriate grantees. Within 45 days of the date of EPA's request, Settling Performing Defendants shall submit to EPA for review and approval with respect to each such property:

(1) A draft easement, in substantially the form attached hereto as Appendix H, that is enforceable under the laws of the State of New Jersey, and

(2) A current title insurance commitment, or some other evidence of title acceptable to EPA, which shows title to the land described in the easement to be free and clear of all prior liens and encumbrances, (a) except for the liens and/or encumbrances listed in Appendix I, (b) except when such prior liens or encumbrances are approved by EPA, or (c) except when, despite best efforts, Settling Performing Defendants, are unable to obtain release or subordination of such prior liens or encumbrances.

Within 15 days of EPA's approval and acceptance of the easement and the title evidence, Settling Performing Defendants 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, the easement shall be recorded with the Office of the County Clerk of Camden County. Within 30 days of the recording of the easement, Settling Performing Defendants shall provide EPA with a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded easement showing the clerk's recording stamps. If the easement is to be conveyed to the United States, the easement and title evidence (including final title evidence) shall be prepared in accordance with the U.S. Department of Justice Title Standards 2001, and approval of the sufficiency of title must be obtained as required by 40 U.S.C. § 255.

27. If (a) any access or land/water use restriction agreements required by Paragraphs 26.a or 26.b of this Consent Decree are not obtained within 45 days of the date of the request by EPA, (b) any deed notice(s) required by Paragraph 26.c of this Consent Decree are not executed and recorded within 90 days of the date of the request by EPA, (c) any access easements or

restrictive easements required by Paragraph 26.d of this Consent Decree are not submitted to EPA in draft form within 45 days of the date of EPA's request for the easement, or (d) Settling Defendants are unable to obtain an agreement pursuant to Paragraph 25.d or Paragraph 26.d from the holder of a prior lien or encumbrance to release or subordinate such lien or encumbrance to the easement being created pursuant to this consent decree within 45 days of the date of EPA's request for the easement (with the exception of the liens and/or encumbrances identified in Appendix I), Settling Performing Defendants shall promptly notify the United States and NJDEP in writing, and shall include in that notification a summary of the steps that Settling Performing Defendants have taken to attempt to comply with Paragraph 25 or 26 of this Consent Decree. The United States and/or the State may, as either deems appropriate, assist Settling Performing Defendants in obtaining access or land/water use restrictions, in the form of contractual agreements, deed notices, or easements running with the land, or in obtaining the release or subordination of a prior lien or encumbrance. Settling Performing Defendants shall reimburse the United States and/or the State in accordance with the procedures in Section XVI (Reimbursement of Response Costs), for all costs incurred, direct or indirect, by the United States and/or the State, respectively, in obtaining such access, land/water use restrictions, and/or the release/subordination of prior liens or encumbrances including, but not limited to, the cost of attorney time and the amount of monetary consideration paid or just compensation.

28. If EPA determines that land/water use restrictions in the form of state or local laws, regulations, ordinances or other governmental controls are needed to implement Phase 1 of the remedy selected in the ROD, ensure the integrity and protectiveness thereof, or ensure non-interference therewith, Settling Performing Defendants shall cooperate with EPA's and the State's efforts to secure such governmental controls. In accordance with the ROD and the SOW and applicable state regulations and/or guidance, the Settling Performing Defendants shall submit such documentation and information to NJDEP, with a copy to EPA, as are necessary for the establishment of a Classification Exception Area (CEA) to restrict the installation of wells and the use of groundwater in the area of groundwater contamination at or affected by the Site. Following the establishment of such a Classification Exception Area, the Settling Performing Defendants shall send notices of the CEA in accordance with state regulations and/or guidance.

29. Notwithstanding any provision of this Consent Decree, the United States and the State retain all of their access authorities and rights, as well as all of their rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statute or regulations.

X. REPORTING REQUIREMENTS

30. In addition to any other requirement of this Consent Decree, Settling Performing Defendants shall submit to EPA and the State two (2) copies of written monthly progress reports that: (a) describe the actions which have been taken toward achieving compliance with this Consent Decree during the previous month; (b) include a summary of all results of sampling and tests and all other data received or generated by Settling Performing Defendants or their contractors or agents in the previous month; (c) identify all work plans, plans and other deliverables required by this Consent Decree completed and submitted during the previous month; (d) describe all actions, including, but not limited to, data collection and implementation of work plans, which are scheduled for the next six weeks and provide other information relating to the progress of construction, including, but not limited to, critical path diagrams, Gantt charts

and Pert charts; (e) include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Phase 1 Work, and a description of efforts made to mitigate those delays or anticipated delays; (f) include any modifications to the work plans or other schedules that Settling Performing Defendants have proposed to EPA or that have been approved by EPA; and (g) describe all activities undertaken in support of the Community Relations Plan during the previous month and those to be undertaken in the next six weeks. Monthly progress reports may be submitted electronically in lieu of paper copies. Settling Performing Defendants shall submit these progress reports to EPA and the State by the tenth day of every month following the lodging of this Consent Decree until EPA notifies the Settling Performing Defendants pursuant to Paragraph 51.b of Section XIV (Certification of Completion). If requested by EPA or the State, Settling Performing Defendants shall also provide briefings for EPA and the State to discuss the progress of the Phase 1 Work.

31. The Settling Performing Defendants shall notify EPA of any change in the schedule described in the monthly progress report for the performance of any activity, including, but not limited to, data collection and implementation of work plans, no later than seven (7) days prior to the performance of the activity.

32. Upon the occurrence of any event during performance of the Phase 1 Work that Settling Performing Defendants are required to report pursuant to Section 103 of CERCLA or Section 304 of the Emergency Planning and Community Right-to-know Act (EPCRA), Settling Performing Defendants shall within 24 hours of the onset of such event orally notify the EPA Remedial Project Manager or in the event that the EPA Remedial Project Manager is unavailable, contact the EPA Region 2 Spill Line at 732-548-8730. These reporting requirements are in addition to the reporting required by CERCLA Section 103 or EPCRA Section 304.

33. Within twenty (20) days of the onset of such an event, Settling Performing Defendants shall furnish to Plaintiffs a written report, signed by the Settling Performing Defendants' Project Coordinator, setting forth the events which occurred and the measures taken, and to be taken, in response thereto. Within thirty (30) days of the conclusion of such an event, Settling Performing Defendants shall submit a report setting forth all actions taken in response thereto.

34. Settling Performing Defendants shall submit three (3) copies of all plans, reports, and data required by the SOW, the Phase 1 Remedial Design Work Plan, the Phase 1 Remedial Action Work Plan, or any other approved plans to EPA in accordance with the schedules set forth in such plans. Settling Performing Defendants shall simultaneously submit three (3) copies of all such plans, reports and data to the State. Upon request by EPA or the State, Settling Performing Defendants shall submit in electronic form all portions of any report or other deliverable Settling Performing Defendants are required to submit pursuant to the provisions of this Consent Decree.

35. All reports and other documents submitted by Settling Performing Defendants to EPA (other than the monthly progress reports referred to above) which purport to document Settling Performing Defendants' compliance with the terms of this Consent Decree shall be signed by an authorized representative of the Settling Performing Defendants.

XI. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

36. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Consent Decree, EPA, after reasonable opportunity for review and comment by the State, shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that the Settling Performing Defendants modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Settling Performing Defendants at least one notice of deficiency and an opportunity to cure within thirty (30) days, except where to do so would cause serious disruption to the Phase 1 Work or where previous submission(s) have been disapproved due to material defects and the deficiencies in the submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

37. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Paragraph 36(a), (b), or (c), Settling Performing Defendants shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XIX (Dispute Resolution) with respect to the modifications or conditions made by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 36(c) and the submission has a material defect, EPA retains its right to seek stipulated penalties, as provided in Section XX (Stipulated Penalties).

38. Resubmission of Plans.

a. Upon receipt of a notice of disapproval pursuant to Paragraph 36(d), Settling Performing Defendants shall, within thirty (30) days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XX, shall accrue during the 30-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 39 and 40.

b. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 36(d), Settling Performing Defendants shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Settling Performing Defendants of any liability for stipulated penalties under Section XX (Stipulated Penalties).

39. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved by EPA, EPA may again require the Settling Performing Defendants to correct the deficiencies, in accordance with the preceding Paragraphs. EPA also retains the right to modify or develop the plan, report or other item. Settling Performing Defendants shall implement any such plan, report, or item as modified or developed by EPA, subject only to their right to invoke the procedures set forth in Section XIX (Dispute Resolution).

40. If upon resubmission, a plan, report, or item is disapproved or modified by EPA due to a material defect, Settling Performing Defendants shall be deemed to have failed to submit such plan, report, or item timely and adequately unless the Settling Performing Defendants

invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution) and EPA's action is overturned pursuant to that Section. The provisions of Section XIX (Dispute Resolution) and Section XX (Stipulated Penalties) shall govern the implementation of the Phase 1 Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XX.

41. All plans, reports, and other items required to be submitted to EPA under this Consent Decree shall, upon approval or modification by EPA, be enforceable under this Consent Decree. In the event EPA approves or modifies a portion of a plan, report, or other item required to be submitted to EPA under this Consent Decree, the approved or modified portion shall be enforceable under this Consent Decree.

XII. PROJECT COORDINATORS

42. Within twenty (20) days of lodging this Consent Decree, Settling Performing Defendants, the State and EPA will notify each other, in writing, of the name, address and telephone number of their respective designated Project Coordinators or Remedial Project Manager and Alternate Project Coordinators. If a Project Coordinator or Remedial Project Manager or Alternate Project Coordinator initially designated is changed, the identity of the successor will be given to the other Parties at least five (5) working days before the changes occur, unless impracticable, but in no event later than the actual day the change is made. The Settling Performing Defendants' Project Coordinator shall be subject to disapproval by EPA and shall have the technical expertise sufficient to adequately oversee all aspects of the Phase 1 Work. The Settling Performing Defendants' Project Coordinator shall not be an attorney for any of the Settling Defendants in this matter. He or she may assign other representatives, including other contractors, to serve as a Site representative for oversight of performance of daily operations during remedial activities.

43. Plaintiffs may designate other representatives, including, but not limited to, EPA and State employees, and federal and State contractors and consultants, to observe and monitor the progress of any activity undertaken pursuant to this Consent Decree. EPA's Remedial Project Manager shall have the authority lawfully vested in a Remedial Project Manager (RPM) and an On-Scene Coordinator (OSC) by the National Contingency Plan, 40 C.F.R. Part 300. In addition, EPA's Remedial Project Manager shall have authority, consistent with the National Contingency Plan, to halt any Phase 1 Work required by this Consent Decree and to take any necessary response action when s/he determines that conditions at the Site constitute an emergency situation or may present an immediate threat to public health or welfare or the environment due to release or threatened release of Waste Material.

44. EPA's Remedial Project Manager and the Settling Performing Defendants' Project Coordinator will meet, at a minimum, on a monthly basis.

XIII. PERFORMANCE GUARANTEE

45. In order to ensure the full and final completion of the Phase 1 Work, Settling Performing Defendants shall establish and maintain a Performance Guarantee for the benefit of EPA in the amount of \$6,580,000 (hereinafter "Estimated Cost of the Phase 1 Work") in one or more of the following forms, which must be satisfactory in form and substance to EPA:

a. A surety bond unconditionally guaranteeing payment and/or performance of the Phase 1 Work that is issued by a surety company among those listed as acceptable sureties on Federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;

b. One or more irrevocable letters of credit, payable to or at the direction of EPA, that is issued by one or more financial institution(s) (i) that has the authority to issue letters of credit and (ii) whose letter-of-credit operations are regulated and examined by a U.S. Federal or State agency;

c. A trust fund established for the benefit of EPA that is administered by a trustee (i) that has the authority to act as a trustee and (ii) whose trust operations are regulated and examined by a U.S. Federal or State agency;

d. A policy of insurance that (i) provides EPA with acceptable rights as a beneficiary thereof; and (ii) is issued by an insurance carrier (a) that has the authority to issue insurance policies in the applicable jurisdiction(s) and (b) whose insurance operations are regulated and examined by a State agency;

e. A demonstration by one or more Settling Performing Defendants that each such Settling Performing Defendant meets the financial test criteria of 40 C.F.R. § 264.143(f) with respect to the Estimated Cost of the Phase 1 Work, provided that all other requirements of 40 C.F.R. § 264.143(f) are satisfied; or

f. A written guarantee to fund or perform the Phase 1 Work executed in favor of EPA by one or more of the following: (i) a direct or indirect parent company of a Settling Performing Defendant, or (ii) a company that has a "substantial business relationship" (as defined in 40 C.F.R. § 264.141(h)) with at least one Settling Performing Defendant; provided, however, that any company providing such a guarantee must demonstrate to the satisfaction of EPA that it satisfies the financial test requirements of 40 C.F.R. § 264.143(f) with respect to the Estimated Cost of the Phase 1 Work that it proposes to guarantee hereunder.

Settling Performing Defendants have selected, and EPA has approved, as an initial Performance Guarantee irrevocable letters of credit pursuant to Paragraph 45(b), totaling \$6,580,000 (the initial Performance Guarantee amount), in the form attached hereto as Appendix J. However, the Settling Performing Defendants may substitute a trust fund established for the benefit of EPA pursuant to Paragraph 45(c) for a portion of the initial Performance Guarantee amount, in the form attached hereto as Appendix K, utilizing a portion of the funds obtained pursuant to Paragraph 58. Within twenty days after entry of this Consent Decree, Settling Performing Defendants shall execute or otherwise finalize all instruments or other documents required in order to make the irrevocable letters of credit and, if applicable, the trust fund, selected as the Performance Guarantee legally binding in form(s) substantially identical to the documents attached hereto as Appendix J and, if applicable, Appendix K, and such Performance Guarantee shall thereupon be fully effective. Within thirty days of entry of this Consent Decree, Settling Performing Defendants shall submit all executed and/or otherwise finalized instruments or other documents required in order to make the selected Performance Guarantee legally binding to the EPA Regional Financial Management Officer in accordance with Section XXVI ("Notices and Submissions") of this Consent Decree, with a copy to the United States and EPA and the State as specified in Section XXVI.

46. If at any time during the effective period of this Consent Decree, the Settling Performing Defendants provide a Performance Guarantee for completion of the Phase 1 Work by means of a demonstration or guarantee pursuant to Paragraph 45(e) or Paragraph 45(f) above, such Settling Performing Defendants shall also comply with the other relevant requirements of 40 C.F.R. § 264.143(f), 40 C.F.R. § 264.151(f), and 40 C.F.R. § 264.151(h)(1) relating to these methods unless otherwise provided in this Consent Decree, including but not limited to (i) the initial submission of required financial reports and statements from the relevant entity's chief financial officer and independent certified public accountant; (ii) the annual re-submission of such reports and statements within ninety days after the close of each such entity's fiscal year; and (iii) the notification of EPA within ninety days after the close of any fiscal year in which such entity no longer satisfies the financial test requirements set forth at 40 C.F.R. § 264.143(f)(1). For purposes of the Performance Guarantee methods specified in this Section XIII, references in 40 C.F.R. Part 264, Subpart H, to "closure," "post-closure," and "plugging and abandonment" shall be deemed to refer to the Phase 1 Work required under this Consent Decree, and the terms "current closure cost estimate," "current post-closure cost estimate," and "current plugging and abandonment cost estimate" shall be deemed to refer to the Estimated Cost of the Phase 1 Work.

47. In the event that EPA determines at any time that a Performance Guarantee provided by any Settling Performing Defendant pursuant to this Section is inadequate or otherwise no longer satisfies the requirements set forth in this Section, whether due to an increase in the estimated cost of completing the Phase 1 Work or for any other reason, or in the event that any Settling Performing Defendant becomes aware of information indicating that a Performance Guarantee provided pursuant to this Section is inadequate or otherwise no longer satisfies the requirements set forth in this Section, whether due to an increase in the estimated cost of completing the Phase 1 Work or for any other reason, Settling Performing Defendants, within thirty days of receipt of notice of EPA's determination or, as the case may be, within thirty days of any Settling Performing Defendant becoming aware of such information, shall obtain and present to EPA for approval a proposal for a revised or alternative form of Performance Guarantee listed in Paragraph 45 of this Consent Decree that satisfies all requirements set forth in this Section XIII. In seeking approval for a revised or alternative form of Performance Guarantee, Settling Performing Defendants shall follow the procedures set forth in Paragraph 49(b)(ii) of this Consent Decree. Settling Performing Defendants' inability to post a Performance Guarantee for completion of the Phase 1 Work shall in no way excuse performance of any other requirements of this Consent Decree, including, without limitation, the obligation of Settling Performing Defendants to complete the Phase 1 Work in strict accordance with the terms hereof.

48. The commencement of any Work Takeover pursuant to Paragraph 91 of this Consent Decree shall trigger EPA's right to receive the benefit of any Performance Guarantee(s) provided pursuant to Paragraph 45(a), (b), (c), (d), or (f), and at such time EPA shall have immediate access to resources guaranteed under any such Performance Guarantee(s), whether in cash or in kind, as needed to continue and complete the Phase 1 Work assumed by EPA under the Work Takeover. If for any reason EPA is unable to promptly secure the resources guaranteed under any such Performance Guarantee(s), whether in cash or in kind, necessary to continue and complete the Phase 1 Work assumed by EPA under the Work Takeover, or in the event that the Performance Guarantee involves a demonstration of satisfaction of the financial test criteria

pursuant to Paragraph 45(e), Settling Performing Defendants shall immediately upon written demand from EPA deposit into an account specified by EPA, in immediately available funds and without setoff, counterclaim, or condition of any kind, a cash amount up to but not exceeding the estimated cost of the remaining Phase 1 Work to be performed as of such date, as determined by EPA.

49. Modification of Amount and/or Form of Performance Guarantee.

a. Reduction of Amount of Performance Guarantee. If Settling Performing Defendants believe that the estimated cost to complete the remaining Phase 1 Work has diminished below the amount set forth in Paragraph 45 above, Settling Performing Defendants may, on any anniversary date of entry of this Consent Decree, or at any other time agreed to by the Parties, petition EPA in writing to request a reduction in the amount of the Performance Guarantee provided pursuant to this Section so that the amount of the Performance Guarantee is equal to the estimated cost of the remaining Phase 1 Work to be performed. Settling Performing Defendants shall submit a written proposal for such reduction to EPA that shall specify, at a minimum, the cost of the remaining Phase 1 Work to be performed and the basis upon which such cost was calculated. In seeking approval for a revised or alternative form of Performance Guarantee, Settling Performing Defendants shall follow the procedures set forth in Paragraph 49(b)(ii) of this Consent Decree. If EPA decides to accept such a proposal, EPA shall notify the petitioning Settling Performing Defendants of such decision in writing. After receiving EPA's written acceptance, Settling Performing Defendants may reduce the amount of the Performance Guarantee in accordance with and to the extent permitted by such written acceptance. In the event of a dispute, Settling Performing Defendants may reduce the amount of the Performance Guarantee required hereunder only in accordance with a final administrative or judicial decision resolving such dispute. No change to the form or terms of any Performance Guarantee provided under this Section, other than a reduction in amount, is authorized except as provided in Paragraphs 47 or 49(b) of this Consent Decree.

b. Change of Form of Performance Guarantee.

(i) If, after entry of this Consent Decree, Settling Performing Defendants desire to change the form or terms of any Performance Guarantee(s) provided pursuant to this Section, Settling Performing Defendants may, on any anniversary date of entry of this Consent Decree, or at any other time agreed to by the Parties, petition EPA in writing to request a change in the form of the Performance Guarantee provided hereunder. The submission of such proposed revised or alternative form of Performance Guarantee shall be as provided in Paragraph 49(b)(ii) of this Consent Decree. Any decision made by EPA on a petition submitted under this Subparagraph (b)(i) shall be made in EPA's sole and unreviewable discretion, and such decision shall not be subject to challenge by Settling Performing Defendants pursuant to the dispute resolution provisions of this Consent Decree or in any other forum.

(ii) Settling Performing Defendants shall submit a written proposal for a revised or alternative form of Performance Guarantee to EPA which shall specify, at a minimum, the estimated cost of the remaining Phase 1 Work to be performed, the basis upon which such cost was calculated, and the proposed revised form of Performance Guarantee, including all proposed instruments or other documents required in order to make the proposed Performance Guarantee legally binding. The proposed revised or alternative form of Performance Guarantee

must satisfy all requirements set forth or incorporated by reference in this Section. Settling Performing Defendants shall submit such proposed revised or alternative form of Performance Guarantee to the EPA Regional Financial Management Officer in accordance with Section XXVI ("Notices and Submissions") of this Consent Decree, with a copy to the United States and EPA and the State as specified in Section XXVI. EPA shall notify Settling Performing Defendants in writing of its decision to accept or reject a revised or alternative Performance Guarantee submitted pursuant to this Subparagraph. Within ten days after receiving a written decision approving the proposed revised or alternative Performance Guarantee, Settling Performing Defendants shall execute and/or otherwise finalize all instruments or other documents required in order to make the selected Performance Guarantee(s) legally binding in a form substantially identical to the documents submitted to EPA as part of the proposal, and such Performance Guarantee(s) shall thereupon be fully effective. Settling Performing Defendants shall submit all executed and/or otherwise finalized instruments or other documents required in order to make the selected Performance Guarantee(s) legally binding to the EPA Regional Financial Management Officer within thirty days of receiving a written decision approving the proposed revised or alternative Performance Guarantee in accordance with Section XXVI ("Notices and Submissions") of this Consent Decree, with a copy to the United States and EPA and the State as specified in Section XXVI.

c. Release of Performance Guarantee. If Settling Performing Defendants receive written notice from EPA in accordance with Paragraph 51 hereof that the Phase 1 Work has been fully and finally completed in accordance with the terms of this Consent Decree, or if EPA otherwise so notifies Settling Performing Defendants in writing, Settling Performing Defendants may thereafter release, cancel, or discontinue the Performance Guarantee(s) provided pursuant to this Section. Settling Performing Defendants shall not release, cancel, or discontinue any Performance Guarantee provided pursuant to this Section except as provided in this Subparagraph. In the event of a dispute, Settling Performing Defendants may release, cancel, or discontinue the Performance Guarantee(s) required hereunder only in accordance with a final administrative or judicial decision resolving such dispute.

XIV. CERTIFICATION OF COMPLETION

50. Completion of the Phase 1 Remedial Action.

a. Within ninety (90) days after Settling Performing Defendants conclude that the Phase 1 Remedial Action has been fully performed and the Performance Standards have been attained, Settling Performing Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Performing Defendants, EPA, and the State. If, after the pre-certification inspection, the Settling Performing Defendants still believe that the Phase 1 Remedial Action has been fully performed and the Performance Standards have been attained, they shall submit a written report requesting certification to EPA for approval, with a copy to the State, pursuant to Section XI (EPA Approval of Plans and Other Submissions) within thirty (30) days of the inspection. In the report, a registered professional engineer and the Settling Performing Defendants' Project Coordinator shall state that the Phase 1 Remedial Action has been completed in full satisfaction of the requirements of this Consent Decree. The written report shall include as-built drawings signed and stamped by a professional engineer. The report shall contain the following statement, signed by a responsible corporate official of a Settling Performing Defendant or the Settling Performing Defendants' Project Coordinator:

To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

If, after completion of the pre-certification inspection and receipt and review of the written report, EPA, after reasonable opportunity to review and comment by the State, determines that the Phase 1 Remedial Action or any portion thereof has not been completed in accordance with this Consent Decree or that the Performance Standards have not been achieved, EPA will notify Settling Performing Defendants in writing of the activities that must be undertaken by Settling Performing Defendants pursuant to this Consent Decree to complete the Phase 1 Remedial Action and achieve the Performance Standards, provided, however, that EPA may only require Settling Performing Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the "scope of the soils remediation and institutional controls components of the remedy selected in the ROD with respect to the areas within the Limits of Soil Remediation," as that term is defined in Paragraph 13.b. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the SOW or require the Settling Performing Defendants to submit a schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Settling Performing Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established pursuant to this Paragraph, subject to their right to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution).

b. If EPA concludes, based on the initial or any subsequent report requesting Certification of Completion and after a reasonable opportunity for review and comment by the State, that the Phase 1 Remedial Action has been performed in accordance with this Consent Decree and that the Performance Standards have been achieved, EPA will so certify in writing to Settling Performing Defendants. Certification of Completion of the Phase 1 Remedial Action shall not affect Settling Performing Defendants' obligations under this Consent Decree.

51. Completion of the Phase 1 Work.

a. Within ninety (90) days after Settling Performing Defendants conclude that all phases of the Phase 1 Work (including Phase 1 O & M, but not including any obligations under Section VII (Remedy Review) that arise after completion of the O&M) have been fully performed, Settling Performing Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Performing Defendants, EPA and the State. If, after the pre-certification inspection, the Settling Performing Defendants still believe that the Phase 1 Work has been fully performed, Settling Performing Defendants shall submit a written report by a registered professional engineer stating that the Phase 1 Work has been completed in full satisfaction of the requirements of this Consent Decree. The report shall contain the following statement, signed by a responsible corporate official of a Settling Performing Defendant or the Settling Performing Defendants' Project Coordinator:

To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fine and imprisonment for knowing violations.

If, after review of the written report, EPA, after reasonable opportunity to review and comment by the State, determines that any portion of the Phase 1 Work has not been completed in accordance with this Consent Decree, EPA will notify Settling Performing Defendants in writing of the activities that must be undertaken by Settling Performing Defendants pursuant to this Consent Decree to complete the Phase 1 Work, provided, however, that EPA may only require Settling Performing Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the "scope of the soils remediation and institutional controls components of the remedy selected in the ROD with respect to the areas within the Limits of Soil Remediation," as that term is defined in Paragraph 13.b. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the SOW or require the Settling Performing Defendants to submit a schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Settling Performing Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established therein, subject to their right to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution).

b. If EPA concludes, based on the initial or any subsequent request for Certification of Completion by Settling Performing Defendants and after a reasonable opportunity for review and comment by the State, that the Phase 1 Work has been performed in accordance with this Consent Decree, EPA will so notify the Settling Performing Defendants in writing.

XV. EMERGENCY RESPONSE

52. In the event of any action or occurrence during the performance of the Phase 1 Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Performing Defendants shall, subject to Paragraph 53, immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall immediately notify the EPA's Remedial Project Manager. If the EPA Remedial Project Manager is unavailable, the Settling Performing Defendants shall notify the EPA Region 2 Spill Line at 732-548-8730. Settling Performing Defendants shall take such actions in consultation with EPA's Remedial Project Manager or other available authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plans, the Contingency Plans, and any other applicable plans or documents developed pursuant to the SOW. In the event that Settling Performing Defendants fail to take appropriate response action as required by this Section, and EPA or, as appropriate, the State take such action instead, Settling Performing Defendants shall reimburse EPA and the State all costs of the response action not inconsistent with the NCP pursuant to Section XVI (Payments for Response Costs).

53. Nothing in the preceding Paragraph or in this Consent Decree shall be deemed to limit any authority of the United States, or the State, a) to take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, or b) to direct or order such action, or seek an order from the Court, to protect human health and the environment or to prevent,

abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, subject to Section XXI (Covenants by Plaintiffs).

XVI. PAYMENTS FOR RESPONSE COSTS

54. Payments for Past Response Costs and State Natural Resource Damages.

a. Within 30 days of the Effective Date, Settling Performing Defendants shall pay \$156,680 to the EPA Hazardous Substance Superfund in reimbursement of Past Response Costs. Payment shall be made by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO Case Number 2007v01580, EPA Site/Spill ID Number 02/MN, and DOJ Case Number 90-11-3-08678. Payment shall be made in accordance with instructions provided to the Settling Performing Defendants by the Financial Litigation Unit of the United States Attorney’s Office for the District of New Jersey following lodging of the Consent Decree. Any payments received by the Department of Justice after 4:00 p.m. (Eastern Time) will be credited on the next business day. The Settling Performing Defendants shall send notice that such payment has been made to the United States, to EPA, and to the Regional Financial Management Officer, in accordance with Section XXVI (Notices and Submissions). This payment shall be deposited in the Martin Aaron Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

b. Within 30 days of the Effective Date, Settling Performing Defendants shall pay to the State \$1,300,000 in the form of a certified or cashier’s check or checks made payable to “Treasurer, State of New Jersey,” in reimbursement of State Past Response Costs. The Settling Performing Defendants shall send the certified or cashier’s check(s) by United States certified mail to Section Chief, Cost Recovery & Natural Resource Damages Section, Division of Law, New Jersey Department of Law & Public Safety, 25 Market Street, Post Office Box 093, Trenton, New Jersey 08625. Notice of the payment shall be sent by the Settling Performing Defendants to the State in accordance with Section XXVI (Notices and Submissions).

c. Within 30 days of the Effective Date, Settling Performing Defendants shall pay to the State \$175,898 in the form of a certified or cashier’s check or checks made payable to “Treasurer, State of New Jersey,” in payment for State Natural Resource Damages. The Settling Performing Defendants shall send the certified or cashier’s check(s) by United States certified mail to Section Chief, Cost Recovery & Natural Resource Damages Section, Division of Law, New Jersey Department of Law & Public Safety, 25 Market Street, Post Office Box 093, Trenton, New Jersey 08625. Notice of the payment shall be sent by the Settling Performing Defendants to the State in accordance with Section XXVI (Notices and Submissions).

55. Payments for Future Response Costs.

a. Settling Performing Defendants shall pay to EPA all Phase 1 Future Response Costs not inconsistent with the National Contingency Plan, excluding the first \$800,000 of Phase 1 Future Oversight Costs which the Settling Defendants are not required to pay. On a periodic basis the United States will send Settling Defendants a bill requiring payment that includes a Superfund Cost Recovery Package Imaging and On-Line System (“SCORPIOS”) report. Settling

Performing Defendants shall make all payments within thirty (30) days of Settling Performing Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 56, provided, however, that sixty (60) days shall be allowed for payment with respect to the first bill from the United States which requests a payment for Phase 1 Future Oversight Costs. All payments to the EPA under this Section shall indicate that the payment is for Phase 1 Future Response Costs and shall be remitted via Electronic Funds Transfer ("EFT"), along with the following information, to EPA's account with the Federal Reserve Bank of New York as follows: i. Amount of Payment; ii. Title of Federal Reserve Bank account to receive the payment: EPA; iii. Address of Federal Reserve Bank account to receive the payment: 33 Liberty Street, New York, NY 10045; iv. Account code for Federal Reserve Bank account receiving the payment: 68010727; v. Federal Reserve Bank ABA Routing Number: 021030004; vi. Name of Party making payment; vii. A message in Field Tag 4200 of the EFT that reads "D 68010727 Environmental Protection Agency;" viii. Site/Spill Identifier Number: 02/MN; and ix. the case Docket Number.

b. At the time of payment, Settling Performing Defendants shall send notice that payment has been made to the United States, to EPA and to the Regional Financial Management Officer, in accordance with Section XXVI (Notices and Submissions).

c. The total amount to be paid by Settling Performing Defendants pursuant to Subparagraph 55.a shall be deposited in the Martin Aaron Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

d. Settling Performing Defendants shall reimburse the State for all State Phase 1 Future Response Costs not inconsistent with the National Contingency Plan. The State will send Settling Performing Defendants a bill requiring payment of State Phase 1 Future Response Costs that includes a State-prepared cost summary which includes direct and indirect costs incurred by the State on a periodic basis. Settling Performing Defendants shall make all payments within thirty (30) days of Settling Performing Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 56. The Settling Performing Defendants shall make all payments to the State required by this Paragraph in the form of a certified or cashier's check or checks made payable to "Treasurer, State of New Jersey," sent by United States certified mail to: Leonard Romino, Assistant Director, Division of Remediation Support, New Jersey Department of Environmental Protection, 401 E. State Street, Trenton, New Jersey 08625. Notice of such payments shall be sent by the Settling Performing Defendants to the State in accordance with Section XXVI (Notices and Submissions).

56. Settling Performing Defendants may contest payment of any Phase 1 Future Response Costs or State Phase 1 Future Response Costs under Paragraph 55 if they determine that the United States or the State has made an accounting error or if they allege that a cost item that is included represents costs that are inconsistent with the NCP or represents costs that are within the first \$800,000 of U.S. Phase 1 Future Oversight Costs. Such objection shall be made in writing within thirty (30) days of receipt of the bill and must be sent to the United States (if the United States' accounting is being disputed) or the State (if the State's accounting is being disputed) pursuant to Section XXVI (Notices and Submissions), provided, however, that sixty (60) days shall be allowed for such objection with respect to the first bill from the United States

which requests a payment for Phase 1 Future Oversight Costs. Any such objection shall specifically identify the contested Phase 1 Future Response Costs or State Phase 1 Future Response Costs and the basis for objection. In the event of an objection, the Settling Performing Defendants shall within the thirty (30) day period pay all uncontested Phase 1 Future Response Costs or State Phase 1 Future Response Costs to the United States or the State, respectively, in the manner described in Paragraph 55, provided, however, that sixty (60) days shall be allowed for such payment with respect to the first bill from the United States which requests a payment for Phase 1 Future Oversight Costs. Simultaneously, the Settling Performing Defendants shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of New Jersey and remit to that escrow account funds equivalent to the amount of the contested Phase 1 Future Response Costs or State Phase 1 Future Response Costs. The Settling Performing Defendants shall send to the United States and the State, as provided in Section XXVI (Notices and Submissions), a copy of the transmittal letter and check paying the uncontested Phase 1 Future Response Costs or State Phase 1 Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, the Settling Performing Defendants shall initiate the Dispute Resolution procedures in Section XIX (Dispute Resolution). If the United States or the State prevails in the dispute, within fifteen (15) days of the resolution of the dispute, the Settling Performing Defendants shall pay the sums due (with accrued interest) to the United States or the State, if State costs are disputed, in the manner described in Paragraph 55. If the Settling Performing Defendants prevail concerning any aspect of the contested costs, the Settling Performing Defendants shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to the United States or the State, if State costs are disputed, in the manner described in Paragraph 55; Settling Performing Defendants shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XIX (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding the Settling Performing Defendants' obligation to reimburse the United States for its Phase 1 Future Response Costs and the State for its State Phase 1 Future Response Costs.

57. In the event that the payments required by Paragraph 54 are not made within 30 days of the Effective Date or the payments required by Paragraph 55 are not made within thirty (30) days of the Settling Performing Defendants' receipt of the bill, Settling Performing Defendants shall pay Interest on the unpaid balance, provided, however, that the requirement to pay Interest shall not go into effect with respect to the first bill from the United States which requests a payment for Phase 1 Future Oversight Costs unless payment for that bill has not been made within sixty (60) days of the Settling Performing Defendants' receipt of that bill. The Interest to be paid on the required payments for Past Response Costs, State Past Response Costs and State Natural Resource Damages under this Paragraph shall begin to accrue on the Effective Date. The Interest on Phase 1 Future Response Costs and State Phase 1 Future Response Costs shall begin to accrue on the date of the bill. The Interest shall accrue through the date of the Settling Performing Defendants' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiffs by virtue of Settling Performing Defendants' failure to make timely payments under this Section including, but not

limited to, payment of stipulated penalties pursuant to Paragraph 74. The Settling Performing Defendants shall make all payments required by this Paragraph in the manner described in Paragraphs 54 and 55.

58. Payments by Settling Non-Performing Defendants.

a. Simultaneously with its inclusion in and signature of the Consent Decree, each Settling Non-Performing Defendant has deposited into a dedicated escrow account initially held by Buchanan Ingersoll & Rooney, PC, attorneys for the Settling Defendants, and then to be held by *de maximis, inc.*, as trustee of the Martin Aaron Superfund Site Qualified Settlement Fund Trust, on behalf of the Settling Non-Performing Defendants, its respective share of \$5,503,932, which share is specified in a separate agreement between the Settling Performing Defendants and the Settling Non-Performing Defendants. The total amount of the money deposited into the escrow account by the Settling Non-Performing Defendants is \$5,503,932. The Settling Non-Performing Defendants shall direct the trustee for the escrow account to pay all of the funds held in the escrow account, including the \$5,503,932, to the Settling Performing Defendants within ten (10) days after the entry of this Consent Decree. Within fifteen (15) days after entry of this Consent Decree, the Settling Performing Defendants shall notify the United States and the State in writing whether they received the funds and, if so, the exact amount received from the escrow account, and shall provide a copy of the bank documentation evidencing the transfer.

b. The payment from the escrow account to the Settling Performing Defendants required under this Paragraph shall be made by intra bank or wire transfer from *de maximis, inc.*, as trustee under the Martin Aaron Superfund Site Qualified Settlement Fund Trust to *de maximis, inc.*, as trustee under the Martin Aaron Phase 1 Trust Fund Agreement. The payment made under this Paragraph shall be deposited into a trust fund, which shall be established by the Settling Performing Defendants pursuant to the Martin Aaron Phase 1 Trust Fund Agreement attached hereto as Appendix L, which agreement shall be executed prior to or within five (5) days after the effective date of this Consent Decree. The Settling Performing Defendants shall provide the United States, EPA, and the State with a copy of the executed Martin Aaron Phase 1 Trust Fund Agreement within fifteen (15) days of its execution.

c. All funds paid to the Settling Performing Defendants by the Settling Non-Performing Defendants pursuant to this Consent Decree shall be used by the Settling Performing Defendants solely to fund Phase 1 Work under this Consent Decree, except that (a) the Settling Performing Defendants may place a portion of these funds (amount to be notified to the United States) in a trust fund established for the benefit of EPA pursuant to Paragraph 45(c) to satisfy a portion of the initial Performance Guarantee requirements of Paragraph 45, to the extent such a placement is made within twenty days after entry of the Consent Decree, (b) the Settling Performing Defendants may use up to \$185,389 of these funds towards making the payment required under Paragraph 54.b, and (c) the Settling Performing Defendants may use up to \$156,680 in making the payment required under Paragraph 54.a.

59. Payment on behalf of the Settling Federal Agency.

a. As soon as reasonably practicable after the Effective Date, and consistent with

subparagraph 59.c, the United States, on behalf of the Settling Federal Agency, shall make a payment of \$172,500 to the Settling Performing Defendants. The payment shall be made by Electronic Funds Transfer to an account designated in writing to the United States by the Settling Performing Defendants within ten days after the Effective Date. In designating the account, the Settling Performing Defendants shall include the following information: (a) Bank name, (b) Bank address, (c) Routing number, (d) Account number, (e) Name of Account, (f) Federal Taxpayer Identification No., and (g) whether the account is a checking or savings account. The payment made under this Paragraph shall be deposited by the Settling Performing Defendants into the trust fund established by the Settling Performing Defendants pursuant to the Martin Aaron Phase 1 Trust Fund Agreement attached hereto as Appendix L. All funds paid to the Settling Performing Defendants by the United States on behalf of the Settling Federal Agency shall be used by the Settling Performing Defendants solely to fund Phase 1 Work under this Consent Decree.

b. In the event that the payment required by this Paragraph is not made within 90 days of the Effective Date, interest on the unpaid balance shall be paid at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), commencing on the Effective Date and accruing through the date of the payment.

c. The Parties to this Consent Decree recognize and acknowledge that the payment obligation of the United States on behalf of the Settling Federal Agency under this Consent Decree can only be paid from appropriated funds legally available for such purpose. Nothing in this Consent Decree shall be interpreted or construed as a commitment or requirement that the United States or the Settling Federal Agency obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

XVII. INDEMNIFICATION AND INSURANCE

60. Settling Performing Defendants' Indemnification of the United States and the State.

a. The United States and the State do not assume any liability by entering into this agreement or by virtue of any designation of Settling Performing Defendants as EPA's authorized representatives under Section 104(e) of CERCLA. Settling Performing Defendants shall indemnify, save and hold harmless the United States, the State, and their officials, agents, employees, contractors, subcontractors, or representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Settling Performing Defendants, 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, including, but not limited to, any claims arising from any designation of Settling Performing Defendants as EPA's authorized representatives under Section 104(e) of CERCLA. Further, the Settling Performing Defendants agree to pay the United States and the State all costs they incur including, but not limited to, attorneys fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States or the State based on negligent or other wrongful acts or omissions of Settling Performing Defendants, 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 shall be held out as a party to any

contract entered into by or on behalf of Settling Performing Defendants in carrying out activities pursuant to this Consent Decree. Neither the Settling Performing Defendants nor any such contractor shall be considered an agent of the United States or the State.

b. The United States and the State shall give Settling Performing Defendants notice of any claim for which the United States or the State plans to seek indemnification pursuant to Paragraph 60, and shall consult with Settling Performing Defendants prior to settling such claim.

61. Settling Defendants waive all claims against the United States and the State for damages or reimbursement or for set-off of any payments made or to be made to the United States or the State, arising from or on account of any contract, agreement, or arrangement between any one or more of Settling Defendants and any person for performance of Phase 1 Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Settling Performing Defendants shall indemnify and hold harmless the United States and the State with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Settling Performing Defendants and any person for performance of Phase 1 Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

62. No later than 15 days before commencing any on-site Phase 1 Work, Settling Performing Defendants shall secure, and shall maintain until the first anniversary of EPA's Certification of Completion of the Phase 1 Remedial Action pursuant to Subparagraph 50.b of Section XIV (Certification of Completion) comprehensive general liability insurance with limits of \$5 million dollars, combined single limit, and automobile liability insurance with limits of \$1 million dollars, combined single limit, naming the United States and the State as additional insureds. In addition, for the duration of this Consent Decree, Settling Performing Defendants shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Phase 1 Work on behalf of Settling Performing Defendants in furtherance of this Consent Decree. Prior to commencement of the Phase 1 Work under this Consent Decree, Settling Performing Defendants shall provide to EPA and the State certificates of such insurance and a copy of each insurance policy. Settling Performing Defendants shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. If Settling Performing Defendants demonstrate by evidence satisfactory to EPA and the State that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Settling Performing Defendants need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor. Settling Performing Defendants may satisfy the provisions of this Paragraph 62 if they submit to EPA for approval one of the mechanisms identified in Section XIII (Performance Guarantee) in at least the amounts stated in this Paragraph 62 demonstrating that Settling Performing Defendants are able to pay any claims arising out of Settling Performing Defendants' performance of their obligations under this Consent Decree. Such mechanism shall meet all of the requirements of Section XIII (Performance Guarantee). If Settling Performing Defendants seek to utilize one of the mechanisms set forth in Section XIII (Performance Guarantee) to satisfy the provisions of this

Paragraph 62, they must demonstrate an ability to pay the amounts required under this Paragraph, above and beyond that required by the obligations of Section XIII (Performance Guarantee).

XVIII. FORCE MAJEURE

63. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of the Settling Performing Defendants, of any entity controlled by Settling Performing Defendants, or of Settling Performing Defendants' contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Settling Performing Defendants' best efforts to fulfill the obligation. The requirement that the Settling Performing Defendants exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. "Force Majeure" does not include financial inability to complete the Phase 1 Work or a failure to attain the Performance Standards.

64. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, the Settling Performing Defendants shall notify orally EPA's Remedial Project Manager or, in his or her absence, the Chief of the New Jersey Remediation Branch, Emergency and Remedial Response Division, EPA Region 2, within 5 days of when Settling Performing Defendants first knew that the event might cause a delay. Within 10 days thereafter, Settling Performing Defendants shall provide in writing to EPA and the State an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; the Settling Performing Defendants' rationale for attributing such delay to a force majeure event if they intend to assert such a claim; and a statement as to whether, in the opinion of the Settling Performing Defendants, such event may cause or contribute to an endangerment to public health, welfare or the environment. The Settling Performing Defendants shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Settling Performing Defendants from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Settling Performing Defendants shall be deemed to know of any circumstance of which Settling Performing Defendants, any entity controlled by Settling Performing Defendants, or Settling Performing Defendants' contractors knew or should have known.

65. If EPA, after a reasonable opportunity for review and comment by the State, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA, after a reasonable opportunity for review and comment by the State, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. If EPA, after a reasonable opportunity for review and comment by the State, does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify the Settling Performing Defendants in writing

of its decision. If EPA, after a reasonable opportunity for review and comment by the State, agrees that the delay is attributable to a force majeure event, EPA will notify the Settling Performing Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

66. If the Settling Performing Defendants elect to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution), they shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Settling Performing Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Settling Performing Defendants complied with the requirements of Paragraphs 63 and 64, above. If Settling Performing Defendants carry this burden, the delay at issue shall be deemed not to be a violation by Settling Performing Defendants of the affected obligation of this Consent Decree identified to EPA and the Court and the time for performance of the affected obligation shall be extended in accordance with the procedures set forth in Paragraph 65 of this Consent Decree.

XIX. DISPUTE RESOLUTION

67. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve any disputes arising between the United States and the Settling Performing Defendants under or with respect to this Consent Decree. However, the procedures set forth in this Section shall not apply to actions by the United States to enforce obligations of the Settling Performing Defendants that have not been disputed in accordance with this Section. The procedures described in N.J.A.C. 7:26C-9.4, Oversight Cost Review, shall be the exclusive mechanism to resolve disputes between the State and the Settling Performing Defendants concerning the payment of State Future Response Costs.

68. 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 it is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute.

69. Statements of Position.

a. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by EPA shall be considered binding unless, within thirty (30) days after the conclusion of the informal negotiation period, Settling Performing Defendants invoke the formal dispute resolution procedures of this Section by serving on the United States and the State a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the Settling Performing Defendants. The Statement of Position shall specify the Settling Performing Defendants' position as to whether formal dispute resolution should proceed under Paragraph 70 or Paragraph 71.

b. Within thirty (30) days after receipt of Settling Performing Defendants' Statement of Position, EPA will serve on Settling Performing Defendants its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. EPA's Statement of Position shall include a statement as to whether formal dispute resolution should proceed under Paragraph 70 or 71. Within twenty (20) days after receipt of EPA's Statement of Position, Settling Performing Defendants may submit a Reply.

c. If there is disagreement between EPA and the Settling Performing Defendants as to whether dispute resolution should proceed under Paragraph 70 or 71, the parties to the dispute shall follow the procedures set forth in the paragraph determined by EPA to be applicable. However, if the Settling Performing Defendants ultimately appeal to the Court to resolve the dispute, the Court shall determine which paragraph is applicable in accordance with the standards of applicability set forth in Paragraphs 70 and 71.

70. Formal dispute resolution for disputes pertaining to the selection or adequacy of any response action and all other disputes that are accorded review on the administrative record under applicable principles of administrative law shall be conducted pursuant to the procedures set forth in this Paragraph. For purposes of this Paragraph, the adequacy of any response action includes, without limitation: (1) the adequacy or appropriateness of plans, procedures to implement plans, or any other items requiring approval by EPA under this Consent Decree; and (2) the adequacy of the performance of response actions taken pursuant to this Consent Decree. Nothing in this Consent Decree shall be construed to allow any dispute by Settling Defendants regarding the validity of the ROD's provisions.

a. An administrative record of the dispute shall be maintained by EPA and shall contain all statements of position, including supporting documentation, submitted pursuant to this Section. Where appropriate, EPA may allow submission of supplemental statements of position by the parties to the dispute.

b. The Director of the Emergency and Remedial Response Division, EPA Region 2, will issue a final administrative decision resolving the dispute based on the administrative record described in Paragraph 70.a. This decision shall be binding upon the Settling Performing Defendants, subject only to the right to seek judicial review pursuant to Paragraph 70.c. and d.

c. Any administrative decision made by EPA pursuant to Paragraph 70.b. shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by the Settling Performing Defendants with the Court and served on the United States, the State, and the Settling Performing Defendants within fourteen (14) days of receipt of EPA's decision. The motion shall include 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 may file a response to Settling Performing Defendants' motion.

d. In proceedings on any dispute governed by this Paragraph, Settling Performing Defendants shall have the burden of demonstrating that the decision of the Emergency and Remedial Response Division Director is arbitrary and capricious or otherwise not in accordance with law. Judicial review of EPA's decision shall be on the administrative record compiled pursuant to Paragraph 70.a.

71. Formal dispute resolution for disputes that neither pertain to the selection or adequacy of any response action nor are otherwise accorded review on the administrative record under applicable principles of administrative law, shall be governed by this Paragraph.

a. Following receipt of Settling Performing Defendants' Statement of Position submitted pursuant to Paragraph 69, the Director of the Emergency and Remedial Response Division, EPA Region 2, will issue a final decision resolving the dispute. The Emergency and Remedial Response Division Director's decision shall be binding on the Settling Performing Defendants unless, within fourteen (14) days of receipt of the decision, the Settling Performing Defendants file with the Court and serve on the parties a motion for judicial review of the decision setting forth 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 the Consent Decree. The United States may file a response to Settling Performing Defendants' motion.

b. Notwithstanding Paragraph T of Section I (Background) of this Consent Decree, judicial review of any dispute governed by this Paragraph shall be governed by applicable principles of law.

72. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of the Settling Performing Defendants under this Consent Decree, not directly in dispute, unless EPA or the Court agrees otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute as provided in Paragraph 81. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that the Settling Performing Defendants do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XX (Stipulated Penalties).

XX. STIPULATED PENALTIES

73. Settling Performing Defendants shall be liable for stipulated penalties in the amounts set forth in Paragraphs 74 and 75 to the United States for failure to comply with the requirements of this Consent Decree specified therein (except for the requirements specified in Subparagraph 74.b.2.), unless excused under Section XVIII (Force Majeure). "Compliance" by Settling Performing Defendants shall include completion of the activities under this Consent Decree or any work plan or other plan approved under this Consent Decree in accordance with all applicable requirements of law, this Consent Decree, the SOW, and any plans or other documents approved by EPA pursuant to this Consent Decree and within the specified time schedules established by and approved under this Consent Decree. Settling Performing Defendants shall be liable for stipulated penalties in the amounts set forth in Paragraph 74 to the State for failure to comply with the requirements of this Consent Decree specified in Subparagraph 74.b.2. below, unless excused under Section XVIII (Force Majeure).

74. Stipulated Penalty Amounts - Certain Requirements

a. The following stipulated penalties shall accrue per violation per day for any noncompliance with the requirements identified in Subparagraph 74.b.:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,000	1 st through 14 th day
\$4,000	15 th day through 30 th day
\$8,000	31 st day and beyond

b. Compliance Milestones - Certain Requirements

(1) Payment of Past Response Costs and Phase 1 Future Response Costs pursuant to Section XVI (Payment for Response Costs) of this Consent Decree;

(2) Payment of State Past Response Costs and State Phase 1 Future Response Costs pursuant to Section XVI (Payment for Response Costs) of this Consent Decree;

(3) Provision of Performance Guarantee pursuant to Section XIII (Performance Guarantee) of this Consent Decree;

(4) Compliance with any reporting requirements set forth in Section X (Reporting Requirements) of this Consent Decree;

(5) Implementation of Phase 1 Remedial Design, Phase 1 Remedial Action and/or Phase 1 Operation and Maintenance in accordance with the SOW, the ROD and/or this Consent Decree, and plans and schedules approved thereunder, including designation of Supervising Contractor, hiring of contractors, submission of plans, schedules, and reports, and completion of tasks in accordance with deadlines and requirements specified therein.

75. Stipulated Penalty Amounts - Other Requirements

a. The following stipulated penalties shall accrue per violation per day for any noncompliance with the requirements identified in Subparagraph 75.b.:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1 st through 14 th day
\$1,500	15 th day through 30 th day
\$2,500	31 st day and beyond

b. Other Requirements

All requirements of this Consent Decree that are not identified in Paragraph 74.b. of this Consent Decree.

76. In the event that EPA assumes performance of a portion or all of the Phase 1 Work pursuant to Paragraph 91 of Section XXI (Covenants by Plaintiffs), Settling Performing Defendants shall be liable for a stipulated penalty in the amount of \$750,000.

77. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section XI (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Settling Performing Defendants of any deficiency; (2) with respect to a decision by the Director of the Emergency and Remedial Response Division, EPA Region 2, under Paragraph 70.b. or 71.a. of Section XIX (Dispute Resolution), during the period, if any, beginning on the 21st day after the date that Settling Performing Defendants' reply to EPA's Statement of Position is received until the date that the Director issues a final decision regarding such dispute; or (3) with respect to judicial review by this Court of any dispute under Section XIX (Dispute Resolution), during the period, if any, beginning on the 31st day after the Court's receipt of the final submission regarding the dispute until the date that the Court issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

78. Following EPA's determination, or the State's determination as to Subparagraph 74.b.2., that Settling Performing Defendants have failed to comply with a requirement of this Consent Decree, EPA, or the State as to Subparagraph 74.b.2., may give Settling Performing Defendants written notification of the same and describe the noncompliance. EPA, or the State as to Subparagraph 74.b.2., may send the Settling Performing Defendants a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA, or the State as to Subparagraph 74.b.2., has notified the Settling Performing Defendants of a violation.

79. All penalties accruing under this Section shall be due and payable to the United States, or the State as to Subparagraph 74.b.2., within 30 days of the Settling Performing Defendants' receipt from EPA, or the State as to Subparagraph 74.b.2., of a demand for payment of the penalties, unless Settling Performing Defendants invoke the Dispute Resolution procedures under Section XIX (Dispute Resolution). All payments to the United States under this Section shall be paid by certified or cashier's check(s) or by Electronic Funds Transfer. If paid by check, the check should be made payable to "EPA Hazardous Substances Superfund," and shall be mailed to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

If paid by Electronic Funds Transfer, the payment shall be made in the same manner as specified in Paragraph 55.a. All payments shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID #02/MN, the DOJ Case Number 90-11-3-08678 and the name and address of the party making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter, or notice of Electronic Funds Transfer shall be

sent to the United States as provided in Section XXVI (Notices and Submissions). All payments to the State under this Section shall be paid in the form of a certified or cashier's check or checks made payable to "Treasurer, State of New Jersey" and shall be sent by United States certified mail to Section Chief, Cost Recovery & Natural Resource Damages Section, Division of Law, New Jersey Department of Law & Public Safety, 25 Market Street, Post Office Box 093, Trenton, New Jersey 08625. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter, shall be sent to the State as provided in Section XXVI (Notices and Submissions).

80. The payment of penalties shall not alter in any way Settling Performing Defendants' obligation to complete the performance of the Phase 1 Work required under this Consent Decree.

81. Penalties shall continue to accrue as provided in Paragraph 77 during any dispute resolution period, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA, or the State as to Subparagraph 74.b.2., that is not appealed to this Court, accrued penalties determined to be owing shall be paid to EPA, or the State as to Subparagraph 74.b.2., within fifteen (15) days of the agreement or twenty (20) days of the receipt of EPA's decision or order, or the State's decision or order as to Subparagraph 74.b.2.;

b. If the dispute is appealed to this Court and the United States, or the State as to Subparagraph 74.b.2., prevails in whole or in part, Settling Performing Defendants shall pay all accrued penalties determined by the Court to be owed to EPA, or the State as to Subparagraph 74.b.2., within 60 days of receipt of the Court's decision or order, except as provided in Subparagraph 81.c. below;

c. If the District Court's decision is appealed by any Party, Settling Performing Defendants shall pay all accrued penalties determined by the District Court to be owing to the United States, or the State as to Subparagraph 74.b.2., into an interest-bearing escrow account within 60 days of receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue, at least every 60 days. Within fifteen (15) days of receipt of the final appellate court decision, the escrow agent shall pay the balance of the account to EPA, or the State as to Subparagraph 74.b.2., or to Settling Performing Defendants to the extent that they prevail.

82. If Settling Performing Defendants fail to pay stipulated penalties when due, the United States, or the State as to Subparagraph 74.b.2., may institute proceedings to collect the penalties, as well as interest. Settling Performing Defendants shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 79.

83. Nothing in this Consent Decree shall be construed as prohibiting, altering, or in any way limiting the ability of the United States or the State to seek any other remedies or sanctions available by virtue of Settling Defendants' violation of this Decree or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, provided, however, that the United States shall not seek civil penalties pursuant to Section 122(l) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of the Consent Decree.

84. Notwithstanding any other provision of this Section, the United States, or the State as to Subparagraph 74.b.2., may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Consent Decree.

XXI. COVENANTS BY PLAINTIFFS

85. United States' Covenant. In consideration of the actions that will be performed and the payments that will be made by the Settling Defendants under the terms of the Consent Decree, and except as specifically provided in Paragraphs 87, 88, and 90 of this Section, the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Sections 106 and 107(a) of CERCLA:

- a. for performance of the Phase 1 Work;
- b. for the performance of, or payment for, additional response actions in connection with soil contamination within the Limits of Soil Remediation;
- c. for the performance of, or payment for, investigation or remediation of soil contamination at the Site that is not within the Limits of Soil Remediation; and
- d. for recovery of Past Response Costs and Phase 1 Future Response Costs.

As to the Settling Performing Defendants, except with respect to future liability relating to the matter referred to in Subparagraph 85.b above, these covenants not to sue shall take effect upon the Effective Date of this Consent Decree. As to each of the Settling Non-Performing Defendants, except with respect to future liability relating to the matter referred to in Subparagraph 85.b above, these covenants not to sue shall take effect upon the notification to the United States required under Paragraph 58 of the Consent Decree that all of the funds held in the escrow account referred to in that Paragraph, including the \$5,503,932 deposited by the Settling Non-Performing Defendants, has been received by the Settling Performing Defendants in accordance with the requirements of that Paragraph. As to the Settling Defendants, with respect to future liability relating to the matter referred to in Subparagraph 85.b above, the covenant not to sue for such future liability shall take effect upon Certification of Completion of the Phase 1 Remedial Action by EPA pursuant to Paragraph 50.b. of Section XIV (Certification of Completion). The covenants not to sue Settling Performing Defendants are conditioned upon the satisfactory performance by Settling Performing Defendants of their obligations under this Consent Decree. The covenants not to sue each of the Settling Non-Performing Defendants is conditioned upon the satisfactory performance by that Settling Non-Performing Defendant of its obligations under this Consent Decree. These covenants not to sue extend only to the Settling Defendants and do not extend to any other person.

86. EPA Covenant. In consideration of the payment that will be made by the United States on behalf of the Settling Federal Agency under Paragraph 59, which is to be used towards performance of the Phase 1 Work, and except as specifically provided in Paragraphs 87, 88, and 90 of this Section, EPA covenants not to take administrative action against the Settling Federal Agency pursuant to Sections 106 and 107(a) of CERCLA:

- a. for performance of the Phase 1 Work;
- b. for the performance of, or payment for, additional response actions in connection with soil contamination within the Limits of Soil Remediation;
- c. for the performance of, or payment for, investigation or remediation of soil contamination at the Site that is not within the Limits of Soil Remediation; and

- d. for recovery of Past Response Costs and Phase 1 Future Response Costs.

Except with respect to future liability relating to the matter referred to in Subparagraph 86.b above, these covenants not to take administrative action against the Settling Federal Agency shall take effect upon the payment by the United States on behalf of the Settling Federal Agency required under Paragraph 59. With respect to future liability relating to the matter referred to in Subparagraph 86.b above, EPA's covenant pursuant to this Paragraph shall take effect upon Certification of Completion of the Phase 1 Remedial Action by EPA pursuant to Paragraph 50.b of Section XIV (Certification of Completion). EPA's covenants under this Paragraph are conditioned upon the satisfactory performance by the Settling Federal Agency of its obligations under this Consent Decree. EPA's covenants under this Paragraph extend only to the Settling Federal Agency and do not extend to any other person.

87. United States' Pre-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Settling Defendants, and EPA reserves the right to issue an administrative order seeking to compel the Settling Federal Agency, to perform further response actions relating to soil contamination within the Limits of Soil Remediation, or to reimburse the United States for additional costs of response relating to such areas, if, prior to the Certification of Completion of the Phase 1 Remedial Action:

- (1) soil conditions within the Limits of Soil Remediation, previously unknown to EPA, are discovered, or information, previously unknown to EPA is received, in whole or part; and
- (2) EPA determines that these previously unknown conditions or information, together with any other relevant information, indicates that the Phase 1 Work undertaken or to be undertaken in areas within the Limits of Soil Remediation is not protective of human health or the environment.

88. United States' Post-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Settling Defendants, and EPA reserves the right to issue an administrative order seeking to compel the Settling Federal Agency, to perform further response actions relating to soil contamination within the Limits of Soil Remediation, or to reimburse the United States for additional costs of response relating to such areas, if, subsequent to Certification of Completion of the Phase 1 Remedial Action:

- (1) soil conditions within the Limits of Soil Remediation, previously unknown to EPA, are discovered, or information, previously unknown to EPA is received, in whole or part; and
- (2) EPA determines that these previously unknown conditions or information, together with any other relevant information, indicates that the Phase 1 Work

undertaken or to be undertaken in areas within the Limits of Soil Remediation is not protective of human health or the environment.

89. For purposes of Paragraph 87 and 94, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date of lodging of this Consent Decree and set forth in the ROD, the administrative record supporting the ROD, the Final Sampling and Analysis Report, Surface Soil and Building Interior Sampling Ponte Equities Site, Weston Solutions, Inc. (March 1, 2006), and the Soil Investigation of the Ponte Equities Site, WA #0-183, Final Trip Report, Lockheed Martin Technology Services (May 5, 2006). For purposes of Paragraph 88 and Paragraph 95, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date of Certification of Completion of the Phase 1 Remedial Action and set forth in the ROD, the administrative record supporting the ROD, the Final Sampling and Analysis Report, Surface Soil and Building Interior Sampling Ponte Equities Site, Weston Solutions, Inc. (March 1, 2006), the Soil Investigation of the Ponte Equities Site, WA #0-183, Final Trip Report, Lockheed Martin Technology Services (May 5, 2006), the post-ROD administrative record, or in any information received by EPA pursuant to the requirements of this Consent Decree prior to Certification of Completion of the Phase 1 Remedial Action.

90. United States' General reservations of rights. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within Plaintiff United States' covenant not to sue the Settling Defendants. EPA and the federal natural resources trustees reserve, and this Consent Decree is without prejudice to, all rights against the Settling Federal Agency with respect to all matters not expressly included within EPA's covenant not to take administrative action against the Settling Federal Agency. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants, and EPA and the federal natural resources trustees reserve all rights against the Settling Federal Agency, with respect to:

- a. claims based on a failure by any Settling Defendant to meet a requirement applicable to it under this Consent Decree;
- b. claims based on a failure by the Settling Federal Agency to meet a requirement applicable to it under this Consent Decree;
- c. liability arising from the past, present, or future disposal, release, or threat of release of Waste Material outside of the Site;
- d. liability based upon the Settling Defendants' ownership or operation of the Site, or upon the Settling Defendants' transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal of Waste Material at or in connection with the Site, other than as provided in the soils remediation component of the ROD, the Phase 1 Work, or otherwise ordered by EPA, after signature of this Consent Decree by the Settling Defendants;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. criminal liability;

g. liability for violations of federal or state law which occur during or after implementation of the Phase 1 Remedial Action;

h. liability, prior to Certification of Completion of the Phase 1 Remedial Action, for additional response actions for soils remediation and institutional controls with respect to areas within the Limits of Soil Remediation that EPA determines are necessary to achieve Performance Standards, but that cannot be required pursuant to Paragraph 13 (Modification of the SOW or Related Work Plans);

i. liability for additional phase(s) of response actions to implement the groundwater remedy selected in the ROD and any associated institutional controls selected in the ROD not fully implemented pursuant to this Consent Decree;

j. liability for additional operable units at the Site or the final response action, except for liability for response actions for which a covenant not to sue Settling Defendants is provided in Paragraph 85 above and a covenant not to take administrative action against the Settling Federal Agency is provided in Paragraph 86 above; and

k. liability for costs that the United States will incur related to the Site, except for liability for costs for which a covenant not to sue Settling Defendants is provided in Paragraph 85 above and a covenant not to take administrative action against the Settling Federal Agency is provided in Paragraph 86 above.

91. Work Takeover. (a) In the event EPA determines that Settling Performing Defendants have (i) ceased implementation of any portion of the Phase 1 Work, or (ii) are seriously or repeatedly deficient or late in their performance of the Phase 1 Work, or (iii) are implementing the Phase 1 Work in a manner which may cause an endangerment to human health or the environment, EPA may issue a written notice ("Work Takeover Notice") to the Settling Performing Defendants. Any Work Takeover Notice issued by EPA will specify the grounds upon which such notice was issued and will provide Settling Performing Defendants a period of twenty (20) days within which to remedy the circumstances giving rise to EPA's issuance of such notice.

(b) If, after expiration of the twenty (20) day notice period specified in Paragraph 91(a), Settling Performing Defendants have not remedied to EPA's satisfaction the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, EPA, by itself or in conjunction with the State, may at any time thereafter assume the performance of all or any portions of the Phase 1 Work as EPA deems necessary ("Work Takeover"). EPA shall notify Settling Performing Defendants in writing (which writing may be electronic) if EPA determines that implementation of a Work Takeover is warranted under this Paragraph 91(b).

(c) Settling Performing Defendants may invoke the procedures set forth in Section XIX (Dispute Resolution), Paragraph 70, to dispute EPA's implementation of a Work Takeover under Paragraph 91(b). However, notwithstanding Settling Performing Defendants' invocation of such dispute resolution procedures, and during the pendency of any such dispute, EPA may in its sole discretion commence and continue a Work Takeover under Paragraph 91(b) until the earlier of (i) the date that Settling Performing Defendants remedy, to EPA's satisfaction, the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice or (ii) the date

that a final decision is rendered in accordance with Section XIX (Dispute Resolution), Paragraph 70, requiring EPA to terminate such Work Takeover.

(d) After commencement and for the duration of any Work Takeover, EPA shall have immediate access to and benefit of any performance guarantee(s) provided pursuant to Section XIII of this Consent Decree, in accordance with the provisions of Paragraph 48 of that Section. If and to the extent that EPA is unable to secure the resources guaranteed under any such performance guarantee(s) and the Settling Performing Defendant(s) fail to remit a cash amount up to but not exceeding the estimated cost of the remaining Phase 1 Work to be performed, all in accordance with the provisions of Paragraph 48, any unreimbursed costs incurred by EPA and/or the State in performing Phase 1 Work under the Work Takeover shall be considered Future Response Costs and/or State Future Response Costs that Settling Performing Defendants shall pay pursuant to Section XVI (Payment for Response Costs).

92. Notwithstanding any other provision of this Consent Decree, the United States and the State retain all authority and reserve all rights to take any and all response actions authorized by law.

93. State Covenant. In consideration of the actions that will be performed and the payments that will be made by the Settling Defendants and the United States on behalf of the Settling Federal Agency under the terms of the Consent Decree, and except as specifically provided in Paragraphs 94, 95, and 96 of this Section, the State Plaintiffs covenant not to sue or to take administrative action against the Settling Defendants and the Settling Federal Agency pursuant to Section 107(a) of CERCLA, the Spill Act, or any other authority:

- a. for performance of the Phase 1 Work;
- b. for the performance of, or payment for, additional response actions in connection with soil contamination within the Limits of Soil Remediation;
- c. for the performance of, or payment for, investigation or remediation of soil contamination at the Site that is not within the Limits of Soil Remediation;
- d. for recovery of State Past Response Costs and State Phase 1 Future Response Costs; and
- e. for payment for State Natural Resource Damages.

As to the Settling Performing Defendants, except with respect to future liability relating to the matter referred to in Subparagraph 93.b above, these covenants not to sue shall take effect upon receipt by the State of the payments required under Paragraph 54.b and c. As to each of the Settling Non-Performing Defendants, except with respect to future liability relating to the matter referred to in Subparagraph 93.b above, these covenants not to sue shall take effect upon the notification to the State required under Paragraph 58 of the Consent Decree that all of the funds held in the escrow account referred to in that Paragraph, including the \$5,503,932 deposited by the Settling Non-Performing Defendants, has been received by the Settling Performing Defendants in accordance with the requirements of that Paragraph. As to the Settling Federal Agency, except with respect to future liability relating to the matter referred to in Subparagraph 93.b above, these covenants not to sue shall take effect upon the payment by the United States on behalf of the Settling Federal Agency required under Paragraph 59. As to the Settling Defendants

and the Settling Federal Agency, with respect to future liability relating to the matter referred to in Subparagraph 93.b above, the covenant not to sue for such future liability shall take effect upon Certification of Completion of the Phase 1 Remedial Action by EPA pursuant to Paragraph 50.b. of Section XIV (Certification of Completion). The covenants not to sue Settling Performing Defendants are conditioned upon the satisfactory performance by Settling Performing Defendants of their obligations under this Consent Decree. The covenants not to sue each of the Settling Non-Performing Defendants are conditioned upon the satisfactory performance by that Settling Non-Performing Defendant of its obligations under this Consent Decree. The covenants not to sue the Settling Federal Agency are conditioned upon the satisfactory performance by the Settling Federal Agency of its obligations under this Consent Decree. These covenants not to sue extend only to the Settling Defendants and the Settling Federal Agency and do not extend to any other person.

94. State's Pre-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the State Plaintiffs reserve, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Settling Defendants and the Settling Federal Agency

(a) to perform further response actions relating to soil contamination within the Limits of Soil Remediation to the extent that EPA determines, after a reasonable opportunity for review and comment by the State, that such actions will not significantly delay or be inconsistent with the Phase 1 Remedial Action, or

(b) to reimburse the State for additional costs of response relating to such areas to the extent that EPA determines, after a reasonable opportunity for review and comment by the State, that such actions will not significantly delay or be inconsistent with the Phase 1 Remedial Action,

if, prior to the Certification of Completion of the Phase 1 Remedial Action:

- (1) soil conditions within the Limits of Soil Remediation, previously unknown to EPA are discovered, or information, previously unknown to EPA is received, in whole or part; and
- (2) EPA determines that these previously unknown conditions or information, together with any other relevant information, indicates that the Phase 1 Work undertaken or to be undertaken in areas within the Limits of Soil Remediation is not protective of human health or the environment.

95. State's Post-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the State Plaintiffs reserve, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Settling Defendants and the Settling Federal Agency

(a) to perform further response actions relating to soil contamination within the Limits of Soil Remediation to the extent EPA determines, after a reasonable opportunity for review and comment by the State, that such actions will not be inconsistent with the Phase 1 Remedial Action, or

(b) to reimburse the State for additional costs of response relating to such areas to the extent EPA determines, after a reasonable opportunity for review and comment by the State, that such actions will not be inconsistent with the Phase 1 Remedial Action,

if, subsequent to Certification of Completion of the Phase 1 Remedial Action:

- (1) soil conditions within the Limits of Soil Remediation, previously unknown to EPA, are discovered, or information, previously unknown to EPA is received, in whole or part; and
- (2) EPA determines that these previously unknown conditions or information, together with any other relevant information, indicates that the Phase 1 Work undertaken or to be undertaken in areas within the Limits of Soil Remediation is not protective of human health or the environment.

96. State's General reservations of rights. The covenants contained in Paragraph 93 above do not pertain to any matters other than those expressly stated. The State Plaintiffs reserve, and this Consent Decree is without prejudice to, all rights against Settling Defendants and the Settling Federal Agency concerning all other matters. Notwithstanding any other provision of this Consent Decree, the State Plaintiffs reserve all rights against Settling Defendants and the Settling Federal Agency with respect to:

- a. claims based on a failure by any Settling Defendant to satisfy any term or provision applicable to it under this Consent Decree;
- b. claims based on a failure by the Settling Federal Agency to satisfy any term or provision applicable to it under this Consent Decree;
- c. liability arising from the past, present, or future discharge or unsatisfactory storage or containment of Waste Material outside of the Site;
- d. liability based upon the Settling Defendants' ownership or operation of the Site, or upon the Settling Defendants' transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal of Waste Material at or in connection with the Site, other than as provided in the soils remediation component of the ROD, the Phase 1 Work, or otherwise ordered by EPA, after signature of this Consent Decree by the Settling Defendants;
- e. liability for any claim pending or filed on or after the effective date of this Consent Decree against the Spill Fund concerning the Site;
- f. criminal liability;
- g. liability for violations of federal or state law which occur during or after implementation of the Phase 1 Remedial Action;
- h. liability, prior to Certification of Completion of the Phase 1 Remedial Action, for additional response actions for soils remediation and institutional controls with respect to areas within the Limits of Soil Remediation that EPA determines are necessary to achieve Performance

Standards, but that cannot be required pursuant to Paragraph 13 (Modification of the SOW or Related Work Plans);

i. liability for additional phase(s) of response actions to implement the groundwater remedy selected in the ROD and any associated institutional controls selected in the ROD not fully implemented pursuant to this Consent Decree;

j. liability for additional operable units at the Site or the final response action, except for liability for response actions for which a covenant not to sue is provided in Paragraph 93 above; and

k. liability for costs that the State will incur related to the Site, except for liability for costs for which a covenant not to sue is provided in Paragraph 93 above.

XXII. COVENANTS BY SETTLING DEFENDANTS AND SETTLING FEDERAL AGENCY

97. Covenant Not to Sue by Settling Defendants. Subject to the reservations in Paragraphs 99 and 100, Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against the United States or the State with respect to the Phase 1 Work, Settling Defendants' past response actions relating to the Site, Past Response Costs, Phase 1 Future Response Costs, State Past Response Costs, State Phase 1 Future Response Costs, State Natural Resource Damages, or this Consent Decree, and the other matters for which a covenant not to sue by the United States is provided in Paragraph 85 or by the State Plaintiffs in Paragraph 93 above, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113 or any other provision of law;

b. any direct or indirect claim for reimbursement from the Spill Fund;

c. any claims against the United States, including any department, agency or instrumentality of the United States, or the State, including any department, agency or instrumentality of the State, under CERCLA Sections 107 or 113, the Spill Act, or any other authority related to the Phase 1 Work, Settling Defendants' past response actions relating to the Site, Past Response Costs, Phase 1 Future Response Costs, State Past Response Costs, State Phase 1 Future Response Costs, or State Natural Resource Damages; and

d. any claims against the United States (including any department, agency or instrumentality of the United States) or the State (including any department, agency or instrumentality of the State) arising out of response actions at or in connection with the Site related to the Phase 1 Work, Past Response Costs, Phase 1 Future Response Costs, State Past Response Costs, State Phase 1 Future Response Costs, or State Natural Resource Damages, including any claim under the United States Constitution, the New Jersey Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law.

98. Covenant by Settling Federal Agency. Settling Federal Agency hereby agrees not to assert any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections

106(b)(2), 107, 111, 112, 113 or any other provision of law or to assert any direct or indirect claim for reimbursement from the Spill Fund with respect to the Phase 1 Work, Past Response Costs, Phase 1 Future Response Costs, State Past Response Costs, State Phase 1 Future Response Costs, State Natural Resource Damages, or this Consent Decree, and the other matters for which a covenant not to take administrative action against the Settling Federal Agency by EPA is provided in Paragraph 85 or a covenant not to sue by the State Plaintiffs is provided in Paragraph 93 of this Consent Decree. This covenant does not preclude demand for reimbursement from the Superfund or the Spill Fund of costs incurred by the Settling Federal Agency in the performance of its duties (other than pursuant to this Consent Decree) as lead or support agency under the National Contingency Plan (40 C.F.R. Part 300).

99. Settling Defendants' Reservations against the United States.

a. The Settling Defendants reserve, and this Consent Decree is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any such claim shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 U.S.C. § 2671; nor shall any such claim include a claim based on EPA's selection of response actions, or the oversight or approval of the Settling Defendants' plans or activities. The foregoing applies only to claims which are brought pursuant to any statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA.

b. The Settling Defendants also reserve, and this Consent Decree is without prejudice to, claims against the United States for failure of the United States to make the payment on behalf of the Settling Federal Agency required under Paragraph 59.

100. Settling Defendants' Reservations against the State. The Settling Defendants reserve, and this Consent Decree is without prejudice to, claims against the State of New Jersey, subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 to 59:12-3; the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 to 59:13-10; the New Jersey Constitution, N.J.Const. art. VIII, §2, ¶2; or any other applicable provision of law, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any State employee while acting within the scope of his office or employment under circumstances where the State, if a private person, would be liable to the claimant. Any such claim, however, shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a State employee as that term is defined in N.J.S.A. 59:1-3; nor shall any such claim include a claim based on NJDEP's participation in the selection of response actions or NJDEP's participation in oversight or approval of the Settling Defendants' plans or activities. The foregoing applies only to claims that the Settling Defendants may bring pursuant to any statute other than the Spill Act, and for which the waiver of sovereign immunity is found in a statute other than the Spill Act.

101. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d). Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim against the Spill Fund within the meaning of N.J.A.C. 58:10-23.11k or N.J.A.C. 7:1J.

102. Settling Defendants agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Settling Defendants with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if:

a. the materials contributed by such person to the Site containing hazardous substances did not exceed the greater of (i) 0.002% of the total volume of waste at the Site, or (ii) 110 gallons of liquid materials or 200 pounds of solid materials (De Micromis Parties).

b. This waiver shall not apply to any claim or cause of action against any person meeting the above criteria if EPA has determined that the materials contributed to the Site by such person contributed or could contribute significantly to the costs of response at the Site. This waiver also shall not apply with respect to any defense, claim, or cause of action that a Settling Defendant may have against any person if such person asserts a claim or cause of action relating to the Site against such Settling Defendant.

XXIII. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

103. Except as provided in Paragraph 102 (Waiver of Claims Against De Micromis Parties), nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this decree may have under applicable law. Except as provided in Paragraph 102 (Waiver of Claims Against De Micromis Parties), each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

104. The Parties agree, and by entering this Consent Decree this Court finds, that the Settling Defendants and the Settling Federal Agency are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), and to the extent provided by N.J.S.A. 58:10-23.11f.a.(2)(b), for matters addressed in this Consent Decree. The "matters addressed" in this settlement are Past Response Costs, Phase 1 Future Response Costs, State Past Response Costs, State Phase 1 Future Response Costs, and State Natural Resource Damages as defined herein, Settling Defendants' past response actions relating to the Site, the Phase 1 Work as defined herein, and the other matters for which a covenant not to sue Settling Defendants by the United States is provided in Paragraph 85, a covenant not to take administrative action against the Settling Federal Agency by EPA is provided in Paragraph 86, and a covenant not to sue by the State Plaintiffs is provided in Paragraph 93.

105. The Settling Defendants agree that with respect to any suit or claim for contribution brought by them for matters related to this Consent Decree they will notify the

United States and the State in writing no later than sixty (60) days prior to the initiation of such suit or claim.

106. The Settling Defendants also agree that with respect to any suit or claim for contribution brought against them for matters related to this Consent Decree they will notify in writing the United States and the State within 10 days of service of the complaint on them. In addition, Settling Defendants shall notify the United States and the State within 10 days of service or receipt of any Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial.

107. a. In any subsequent administrative or judicial proceeding initiated by the United States or the State Plaintiffs for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, the entire controversy doctrine, or other defenses based upon any contention that the claims raised by the United States or the State Plaintiffs in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants set forth in Section XXI (Covenants by Plaintiffs).

b. The Settling Defendants agree that the time between the Effective Date of this Consent Decree and the date on which physical on-site construction of the groundwater component of the remedy selected in the ROD is initiated will not be included in computing the time limited by any statute of limitations for the commencement of any action under CERCLA §§ 107 and 113, 42 U.S.C. §§ 9607 and 9613, the Spill Act, or the New Jersey Water Pollution Control Act, for the recovery of costs incurred by the United States or the State in connection with the groundwater component of the remedy for the Martin Aaron Site, including groundwater remedial work and groundwater monitoring. The Settling Defendants also agree that the aforesaid time period will not be considered on a defense of laches or similar defense concerning timeliness of commencing a civil or administrative action. In any subsequent administrative or judicial proceeding initiated by the United States or the State for the recovery of costs incurred in connection with the groundwater component of the remedy for the Martin Aaron Site, the Settling Defendants shall not assert, plead or raise against the United States or the State in any fashion, whether by answer, motion or otherwise, any defense or avoidance based on the running of any statute of limitations during the aforementioned period, or any laches or other timeliness defense based on the aforesaid period, and any statute of limitations shall be tolled during and for that period.

c. None of the provisions in this Consent Decree pertaining to State Natural Resource Damages, including a State Covenant Not to Sue for such damages, shall be applicable to Exxon Mobil Corporation.

XXIV. ACCESS TO INFORMATION

108. Settling Performing Defendants shall provide to EPA and the State, upon request, copies of all documents and information within their possession or control or that of their

contractors or agents relating to activities at the Site 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 Phase 1 Work. Settling Performing Defendants shall also make available to EPA and the State, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Phase 1 Work.

109. Business Confidential and Privileged Documents.

a. Settling Performing Defendants may assert business confidentiality claims covering part or all of the documents or information submitted to Plaintiffs under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA and the State, or if EPA has notified Settling Performing Defendants that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Settling Defendants.

b. The Settling Performing Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Performing Defendants assert such a privilege in lieu of providing documents, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the contents of the document, record, or information; and (6) the privilege asserted by Settling Performing Defendants. However, no documents, reports or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

110. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

XXV. RETENTION OF RECORDS

111. Until 10 years after the Settling Defendants' receipt of EPA's notification pursuant to Paragraph 51.b of Section XIV (Certification of Completion of the Work), each Settling Defendant shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to its liability under CERCLA with respect to the Site, provided, however, that Settling Defendants who are potentially liable as owners or operators of property at the Site must retain, in addition, all documents and records that relate to the liability of any other person under CERCLA with respect to the Site. Each Settling Performing Defendant must also retain, and instruct its contractors and agents to preserve, for the same period of time specified above all non-identical copies of the last draft or final version of

any documents or records (including documents or records in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Phase 1 Work, provided, however, that each Settling Performing Defendant (and its contractors and agents) must retain, in addition, copies of all data generated during the performance of the Phase 1 Work and not contained in the aforementioned documents required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

112. At the conclusion of this document retention period, Settling Defendants shall notify the United States and the State at least 90 days prior to the destruction of any such records or documents, and, upon request by the United States or the State, Settling Defendants shall deliver any such records or documents to EPA or the State. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Settling Defendants. However, no documents, reports or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

113. Each Settling Defendant hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by the United States or the State or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Section 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

114. The United States acknowledges that the Settling Federal Agency (1) is subject to all applicable Federal record retention laws, regulations, and policies; and (2) has certified that it has fully complied with any and all EPA requests for information pursuant to Section 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XXVI. NOTICES AND SUBMISSIONS

115. Whenever, under the terms of this Consent Decree, written notice is required to be given or a report or other 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 Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, the Settling Federal Agency, the State, and the Settling Performing Defendants and Settling Non-Performing Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ # 90-11-3-08678

and

Chief, Environmental Defense Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 23986
Washington, D.C. 20026-3986
Re: DJ # 90-11-6-18042

As to EPA:

New Jersey Remediation Branch
Emergency and Remedial Response Division
U.S. EPA, Region 2
290 Broadway
New York, NY 10007-1866
Attention: Martin Aaron Site Remedial Project
Manager

New Jersey Superfund Branch
Office of Regional Counsel
U.S. EPA, Region 2
290 Broadway
New York, NY 10007-1866
Attention: Martin Aaron Site Attorney

As to the Regional Financial Management Officer:

Chief, Financial Management Branch
U.S. EPA, Region 2
290 Broadway, 29th Floor
New York, NY 10007-1866

As to the State and NJDEP:

Martin Aaron Site Manager
New Jersey Dept. of Environmental Protection
401 East State Street
P.O. Box 413
Trenton, New Jersey 08625-0413

Section Chief, Cost Recovery & Natural
Resource Damages Section
Division of Law
New Jersey Dept. of Law and Public Safety
25 Market Street
P.O. Box 093
Trenton, New Jersey 08625-0093

As to the Settling Performing Defendants
And Settling Non-Performing Defendants:

de maximis, inc.
Attention: Geoffrey Seibel
Settling Performing Defendants' Project
Coordinator
1125 South Cedar Crest Blvd.
Suite 202
Allentown, PA 18103

XXVII. EFFECTIVE DATE

116. The effective date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court, except as otherwise provided herein.

XXVIII. RETENTION OF JURISDICTION

117. This Court retains jurisdiction over both the subject matter of this Consent Decree and the Settling Defendants for the duration of the performance of the terms and provisions of this Consent Decree 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 XIX (Dispute Resolution) hereof.

XXIX. APPENDICES

118. The following appendices are attached to and incorporated into this Consent Decree:

“Appendix A” is the ROD.

“Appendix B” is the SOW.

“Appendix C” is the map showing the Limits of Soil Remediation.

“Appendix D” is a map showing Block 460, Lots 1, 2, 3, 4, 26, and 29, and showing the streets around Block 460, in the City of Camden, N.J.

“Appendix E” is the complete list of the Settling Defendants.

“Appendix F” is the complete list of the Settling Non-Performing Defendants.

“Appendix G” is the complete list of the Settling Performing Defendants.

“Appendix H” is the sample easement format.

“Appendix I” is the list of excepted liens and/encumbrances.

“Appendix J” is the irrevocable letter of credit form for the Performance Guarantee.

“Appendix K” is the potential trust fund agreement for a portion of the Performance Guarantee.

“Appendix L” is the Martin Aaron Phase 1 Trust Fund Agreement.

XXX. COMMUNITY RELATIONS

119. Settling Performing Defendants shall propose to EPA and the State their participation in the community relations plan to be developed by EPA. EPA will determine the appropriate role for the Settling Performing Defendants under the Plan. Settling Performing Defendants shall also cooperate with EPA and the State in providing information regarding the Phase 1 Work to the public. As requested by EPA or the State, Settling Performing Defendants shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by EPA or the State to explain activities at or relating to the Site.

XXXI. MODIFICATION

120. Schedules specified in this Consent Decree for completion of the Phase 1 Work may be modified by agreement of EPA and the Settling Performing Defendants. All such modifications shall be made in writing.

121. Except as provided in Paragraph 13 (Modification of the SOW or Related Work Plans), no material modifications shall be made to the SOW without written notification to and written approval of the United States, Settling Performing Defendants, and the Court, if such modifications fundamentally alter the basic features of the soils remediation and/or institutional controls components of the selected remedy within the meaning of 40 C.F.R. 300.435(c)(2)(B)(ii). Prior to providing its approval to any modification, the United States will provide the State with a reasonable opportunity to review and comment on the proposed modification. Modifications to the SOW that do not materially alter that document, or material modifications to the SOW that do not fundamentally alter the basic features of the soils remediation and/or institutional controls components of the selected remedy within the meaning of 40 C.F.R.300.435(c)(2)(B)(ii), may be made by written agreement between EPA, after providing the State with a reasonable opportunity to review and comment on the proposed modification, and the Settling Performing Defendants.

122. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise or approve modifications to this Consent Decree.

XXXII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

123. 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 Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

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

XXXIII. SIGNATORIES/SERVICE

125. Each undersigned representative of a Settling Defendant to this Consent Decree, the State Plaintiffs, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

126. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree unless the United States has notified the Settling Defendants in writing that it no longer supports entry of the Consent Decree.

127. Each Settling Defendant shall identify, on the attached signature page, the name, address and telephone number of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of summonses. The parties agree that Settling Defendants need not file an answer to the complaints in this action unless or until the court expressly declines to enter this Consent Decree.

XXXIV. FINAL JUDGMENT

128. This Consent Decree and its appendices constitute the final, complete, and exclusive agreement and understanding among the parties with respect to the settlement embodied in the Consent Decree. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree.

129. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States, the State Plaintiffs, and the Settling Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS ____ DAY OF _____, 20__.

United States District Judge

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR THE UNITED STATES OF AMERICA

22 October 2007

Date

Ronald J. Tenpas
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

11-5-07

Date

Elizabeth Yu, Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

11-6-07

Date

Eileen T. McDonough, Attorney
Environmental Defense Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 23986
Washington, D.C. 20026-3986

Christopher J. Christie
United States Attorney
District of New Jersey

11-6-07

Date

Paul A. Blaine
Assistant United States Attorney
District of New Jersey
Mitchell J. Cohen Court House
P.O. Box 1427
Camden, New Jersey 08101

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

9/13/07
Date

George Pavlou
Director
Emergency and Remedial Response Division
Region 2
U.S. Environmental Protection Agency
290 Broadway
New York, NY 10007-1866

9/11/07
Date

Michael J. van Itallie
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR THE STATE PLAINTIFFS

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

9/19/07
Date

Irene Kropp, Assistant Commissioner
Site Remediation & Waste Management

NEW JERSEY SPILL COMPENSATION
FUND

Date

Anthony J. Farro, Administrator
New Jersey Spill Compensation Fund

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Date

Amy Cradic, Assistant Commissioner
Natural and Historic Resources

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

Date

Mary Ellen Halloran
Deputy Attorney General
Richard J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, New Jersey 08625-0093

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR THE STATE PLAINTIFFS

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Date

Irene Kropp, Assistant Commissioner
Site Remediation & Waste Management

NEW JERSEY SPILL COMPENSATION
FUND

9/19/07
Date

C _____
Leonard J. Romino, Administrator
New Jersey Spill Compensation Fund

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Date

Amy Cradic, Assistant Commissioner
Natural and Historic Resources

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

9/21/07
Date

Mary Ellen Halloran
Deputy Attorney General
Richard J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, New Jersey 08625-0093

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR THE STATE PLAINTIFFS

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date

Irene Kropp, Assistant Commissioner
Site Remediation & Waste Management

NEW JERSEY SPILL COMPENSATION FUND

Date

Anthony J. Farro, Administrator
New Jersey Spill Compensation Fund

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

9/18/07

Date

Amy Cradic, Assistant Commissioner
Natural and Historic Resources

**ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY**

Date

Mary Ellen Halloran
Deputy Attorney General
Richard J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, New Jersey 08625-0093

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR 3M Company

8/30/2007

Date

Sign

Name (print): R. A. Paschke

Title: Manager, Corporate Environmental Programs

Address: P O Box 33428
St. Paul, MN 55133-3428

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Donald J. Camerson, Esq.

Title: Attorney Bressler Amery & Ross

Address: 325 Columbia Turnpike
Florham Park, NJ 07932

Ph. Number: 973/514-1200

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Apparatus to Cookings

8/28/07
Date

Signature: _____
Name (print): Michael C. McCarty
Title: CEO
Address: 101 A South Park
Shelton, AR 72150

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): William H. Bradbury, III
Title: _____
Address: 660 Sentry Pky., Suite 200
Blue Bell, PA 19422-2360

Ph. Number: 610-834-1750

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR American Standard Inc.

9-5-07

Date

Signature: A

Name (print): Dale K. Hartman

Title: General Counsel - RS

Address: 6200 Foy Highway
Farmdale, TX 75707

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Anthony J. Reitano, Esq.

Title:

Address: Herold and Haines, PA

25 Independence Boulevard

Warren, New Jersey 07059

Ph. Number: 908-647-1022

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR: Ashland Inc.

DATE:

Michael S. Roe
Senior Counsel
Ashland Inc.
5200 Blazer Parkway
Dublin, Ohio 43017

Agent Authorized to Accept Service on Behalf of Above-signed Party:

David M. Abner
Senior Litigation Counsel
Ashland Inc.
5200 Blazer Parkway
Dublin, Ohio 43017
614.790.1556 (phone)
dmabner@ashland.com (e-mail)

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v.
American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Atlantic Richfield Company
(on behalf of Sartower Company,
Inc.)

5 SEP 2007
Date

Signature:
Name (print): PATRICIA GALLERY
Title: REGIONAL MANAGER - US NORTH
Address: 28100 TORCH PARKWAY
WARRENVILLE IL 60555

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): John Laager
Title:
Address: Ballard Spahr Andrews + Ingersoll
1735 Market Street
Philadelphia, PA 19103
Ph. Number: (215) 864-8554

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Avery Dennison Corporation

8-27-2007

Date

Signature:

Name (print): Roberta Macklin

Title: Corp. Mgr. ENV & Engineering Services

Address: Avery Dennison

409 Fortune Blvd

Milford, MA 01757

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): BRUCE MARTIN

Title: Sr. Project Engineer

Address: Avery Dennison

409 Fortune Blvd

Milford, MA 01757

Ph. Number: 508/634-7010

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR The Boeing Company

06 SEP 07

Date

Signature: _____
Name (print): STENVO S HESTAG
Title: DIRECTOR, ENVIRONMENTAL REMEDIATION
Address: _____
P.O. BOX 3707 MC 86-34
SEATTLE, WA 98124-2207

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): CT Corporation
Title: _____
Address: 208 South LaSalle St.
Chicago, IL 60604
Ph. Number: 312-263-1414

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR BP Lubricants USA, INC. (as successor in interest to Castrol Heavy Duty Lubricants, Inc. and Dryden Oil Co. of Pennsylvania)

29 Aug 2007

Date

Signature: _____

Name (print): WAYNE J DUGGAN

Title: VICE PRESIDENT

Address: BP

1500 Valley Rd.

Wayne, NJ 07470

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): John Laager

Title: _____

Address: Ballard Spahr Andrews + Ingersoll

1735 Market Street

Philadelphia PA 19103

Ph. Number: (215) 864-8554

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Brenntag Northeast, Inc.

August 16, 2007

Date

Signature: _____

Name (print): MARKUS KLAEHN

Title: President Brenntag Northeast

Address: Markus Klaehn

President, Brenntag Northeast, Inc.

PO Box 13788

Reading, PA 19612

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Thomas T. Terp

Title: Attorney

Address: Taft Stettinius & Hollister LLP

425 Walnut Street, Suite 1800

Cincinnati, OH 45202-3957

Ph. Number: (513) 381-2838

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR BTA North East, Inc

8-30-07
Date

Signature: _____
Name (print): Philip E. Kamins
Title: Director, Board of Directors
Address: 12243 Branford St.
Sun Valley, California 91352

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Corporation Service Company
Title: _____
Address: 2711 Centerville Rd, Suite 400
Wilmington, DE 19808

Ph. Number: _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Chevron Environmental Management Company,
for itself and on behalf of Union Oil Company of
California

8/30/07
Date

Signature:

Name (print): Robert R. John

Title: Assistant Secretary

Address: 6001 Bollinger Canyon Road
San Ramon, CA 94583

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Corporation Service Company

Title:

Address: 830 Bear Tavern Road
West Trenton, NJ 08628

Ph. Number: 800-222-2122

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Clean Earth of North Jersey, Inc.

9/4/08
Date

Signature: _____
Name (print): Robert Fixter
Title: Assistant Secretary, VP Operations & Compliance
Address: 115 Jacobus Avenue
South Kearny, NJ 07032

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Michael D. Logan
Title: President
Address: Compliance Plus Services, Inc.
P.O. Box 186
Hatboro, PA 19040
Ph. Number: 215-734-1414

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Continental Holdings Inc.

8/28/07
Date

Signature _____
Name (print): Lisa Hogan
Title: VP Litigation
Address: 1225 E. Colorado Blvd
Broomfield, CO 80021

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Alan S. Golub
Title: Outside Counsel
Address: Golub + Isabel, P.C.
160 Littleton Road, Suite 300
Parsippany NJ 07054
Ph. Number: (973) 968-3377

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Crown Corp and Seal

8/23/07
Date

Signature: _____
Name (print): MICHAEL J. ROWLEY
Title: asst Secretary
Address: one crown way
Philadelphia PA 19154

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Michael J. Rowley
Title: Assistant Secretary
Address: One Crown Way
Philadelphia, PA 19154

Ph. Number: 215-698-5100

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Du Pont Company

9/5/07
Date

Signature: _____
Name (print): Bernard Reilly
Title: Corporate Counsel
Address: Du Pont Leach D7082
1007 Market St
WILMINGTON DE 19898

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Same
Title: _____
Address: _____
Ph. Number: 302-774-5445

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Exxon Mobil Corporation

8/29/07
Date

Signature: /s/
Name (print): Robert W. Jackmore
Title: Area Manager
Address: Exxon Mobil
3225 Gallows Rd.
Fairfax VA 22037

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Mike Skinner
Title: Project Manager
Address: 230 Kings Highway East #200
Haddonfield NJ 08033
Ph. Number: 856-429-5336

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR FMC Corporation

9/15/07
Date

Signature: _____
Name (print): Robert T. Forbes
Title: Director, Environment
Address: FMC Corporation
1735 Market St.
Philadelphia, PA
19103

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): John F Stillman
Title: Assistant General Counsel
Address: FMC Corporation
1735 Market St
Philadelphia, PA 19103
Ph. Number: 215-299-6989

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR GENERAL MOTORS CORPORATION

August 30th, 2007
Date

Signature: _____
Name (print): James P. Walle
Title: Attorney P31198
Address: 300 Renaissance Center
Mail code 482-024-024
Detroit, MI 48265

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Cassandra Weaver
Title: Legal Assistant
Address: 300 Renaissance Center
Mail code 482-024-024
Detroit, MI 48265
Ph. Number: 313.665.2508

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Goodman Rubber Co

August 13, 2007
Date

Signature _____
Name (print): Adam H. Bloomenstein
Title: Secretary
Address: 445 Enterprise Court
Bloomfield Hills MI 48302
fax 248-631-0109

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Adam H. Bloomenstein
Title: Secretary
Address: 445 Enterprise Court
Bloomfield Hills, MI 48302
Ph. Number: _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR GOULD ELECTRONICS INC.
P/K/A GOULD INC.

8/23/07

Date

Signature:

Name (print): THOMAS N. RICH

Title: Chief Administrative Officer

Address: 34929 CURTIS BLVD.

SUITE 100

EASTLAKE, OH 44095

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): THOMAS N. RICH

Title: Chief Administrative Officer

Address: 34929 CURTIS BLVD.

SUITE 100

EASTLAKE, OH 44095

Ph. Number: (440) 953-5124

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Hatco Corporation

8/29/07
Date

Signature: _____

Name (print): Bard J. Shainman

Title: VP & Secretary

Address: 199 Benson Rd
Middletown, CT 06749

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Anthony J. Reitano, Esq.

Title: _____

Address: Herold and Haines, PA
25 Independence Boulevard
Warren, New Jersey 07059

Ph. Number: 908-647-1022

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR LOOS & DICWORTH, INC.

8/3/07
Date

Signature: _____
Name (print): RICHARD G. CAMPBELL
Title: PRESIDENT
Address: 61 F. GREEN LANE
BRISTOL PA. 19007

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): JOHN C. FENNINGHAM, III
Title: COUNSEL
Address: CORP. STEVENS & FENNINGHAM
FIVE NESHAMINY FERRYPLEX, STE 315
TREVOSE, PA 19053
Ph. Number: 215-639-4070

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Anron Superfund Site.

FOR MACK TRUCKS, INC.

8/27/2007

Date

Signature: _____
Name (print): Scott Morris
Title: U.S. Country Process Owner - HSE
Address: 2100 Mack Boulevard
Allentown, PA 18103

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Thayer Dolan, Jr.
Title: Counsel
Address: Mack Trucks, Inc.
7900 National Service Road, CC 2/7
Greensboro, NC 27409
Ph. Number: 336 393-3889

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Marisol, Inc.

8/29/07
Date

Signature: _____
Name (print): David L. Flood
Title: General Manager
Address: Marisol, Inc.
213 W. Union Ave.
Bound Brook, NJ 08805

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Warren W. Faure
Title: General Counsel
Address: Marisol, Inc.
213 W. Union Ave.
Bound Brook, NJ 08805
Ph. Number: (732) 469-5100

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR NEW ENGLAND CONTAINER CORP

8/21/07
Date

Signature: _____

Name (print): JOHN HEENAN

Title: DIRECTOR

Address: C/O 138 HIGH SPIRE RD
RICHBORO, NJ
18954

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Kirsten Etela

Title: Attorney

Address: New England Container Corp.
695 East Main Street
Stamford, CT 06904

Ph. Number: (203) 462-7534

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR NOVELIS CORPORATION

August 22, 2007
Date

Signature: [Signature]
Name (print): Charles R. Aley, Esq.
Title: Vice-President, Secretary & General Counsel
Address: 6060 Parkland Blvd.
Mayfield Heights, Ohio 44124

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Mark D. Kindt, Esq.
Title: Associate Litigation Counsel
Address: Novelis Corporation
6060 Parkland Blvd.
Mayfield Heights, Ohio 44124
Ph. Number: (440) 423-6916

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Occidental Chemical Corporation

Aug. 29, 2007
Date

Signature: _____
Name (print): Scott A. King
Title: Vice President, General Counsel & Secretary
Address: 5005 LBJ Freeway, Suite 2200
Dallas, Texas 75244

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): The Corporation Trust Company
Title: _____
Address: 820 Bear Tavern Road
West Trenton, New Jersey 08628

Ph. Number: (609) 538-1818

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Owens Corning

08/30/2007

Date

Signature: _____
Name (print): Paul S. Lewandowski
Title: Director, Regulatory Law
Address: Owens Corning
One Owens Corning Pkwy
Toledo, OH 43659

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Paul S. Lewandowski
Title: Director, Regulatory Law
Address: Owens Corning
One Owens Corning Parkway
Toledo, OH 43659
Ph. Number: 419-248-8624

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Prior Coated Metals, Inc.

8/28/07
Date

Signature: _____
Name (print): NICHOLAS J. BOURAS
Title: President
Address: 2233 26th Street, S.W.
Allentown, PA 18103

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): David Feather
Title: _____
Address: 2233 26th Street, S.W.
Allentown, PA 18103

Ph. Number: 610-797-5200

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Quaker City, Inc.

9/10/07
Date

Signature: _____
Name (print): Lee Metzman
Title: President
Address: 7360 MILNOR ST.
PHILA PA 19136

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Lee Metzman
Title: President
Address: 7360 MILNOR ST.
PHILA PA 19136

Ph. Number: 715-333-2000

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Reichhold Inc.

9/7/07

Date

Signature

Name (print): David P. Flynn

Title: Counsel

Address: Phillips Lytle LLP

3400 HSBC Center

Buffalo, NY 14203

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): David P. Flynn

Title: Counsel

Address: Phillips Lytle LLP

3400 HSBC Center

Buffalo, NY 14203

Ph. Number: 716-847-8400

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

Rexam Beverage Can Company, f/k/a
American National Can Company, f/k/a
FOR National Can Corporation
a. Settling Non-Performance Defunct Company

8-30-2007

Date

Signature: _____

Name (print): James H. Kiser _____

Title: Assistant General Counsel _____

Address: 4201 Congress Street, Ste 340
Charlotte, N.C. 28209

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Camille Otero, Esq _____

Title: Attorney _____

Address: Day Pitney, LLP _____

200 Campus Drive _____

Florham Park, N.J. 07932-0950 _____

Ph. Number: (973) 966-8053 _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR ROHM AND HAAS COMPANY

August 29, 2007
Date

Signature: _____
Name (print): Robert A. Conergan JAC
Title: Vice President and General Counsel
Address: 100 Independence Mall West
Philadelphia, PA 19106

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Jennifer B. Levin
Title: Senior Counsel
Address: Rohm and Haas Company
100 Independence Mall West
Philadelphia, PA 19106
Ph. Number: 215-592-6838

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR RUTGERS Organics Corporation

8/30/07
Date

Signature: _____
Name (print): Rainer F. Domalski
Title: President
Address: RUTGERS Organics Corporation
201 Struble Road
State College, PA 16801

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): The Corporation Trust Company
Title: _____
Address: 820 Bear Tavern Road
3rd Floor
West Trenton, NJ 08628
Ph Number: 609-538-1818

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR The Sherwin-Williams Company, and in
its Capacity as Successor in Interest
to Duron, Inc. *SW*

August 20, 2007.

Date

Signature: *[Signature]*

Name (print): Louis E. Scellaro

Title: Vice President, General Counsel & Secretary

Address: 101 Prospect Ave, NW

Midland Building

Cleveland, OH 44115-1075

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Allen J. Danzig

Title: Associate General Counsel - Environmental

Address: The Sherwin-Williams Company
101 Prospect Ave., NW, 1100 Midland Bldg

Cleveland, OH 44115-1075

Ph. Number: (216) 566-2482

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR SIMPSON PAPER COMPANY

8/29/07

Date

Signature: _____

Name (print): R. P. Tennison

Title: President

Address: 917 E. 11th St.

Tacoma, WA 98421

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Betsy G. Stauffer

Title: Corporate Attorney

Address: 917 E. 11th St.

Tacoma, WA 98421

Ph. Number: 253-779-6406

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Southeastern Pennsylvania
Transportation Authority

August 28, 2007
Date

Signature: _____

Name (print): Nicholas J. Staffieri

Title: General Counsel

Address: 1234 Market Street 5th Floor
Philadelphia, PA 19107-3780

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Office of the General Counsel

Title: SEPTA

Address: 1234 Market Street 5th Floor
Philadelphia, PA 19107-3780

Ph. Number: 215-580-7950

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Stepan Company

August 31, 2007
Date

Signature:
Name (print): H. Edward Wynn
Title: V.P., General Counsel & Secretary
Address: 22 W. Frontage Road
Northfield, IL 60093

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Kevin M. McKenna
Title: _____
Address: Latsha Davis Yohe & McKenna, P.C.
350 Eagleview Blvd., Suite 100
Exton, PA 19341
Ph. Number: (610) 524-8454

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Steven Industries

8/23/07
Date

Signature: _____
Name (print): William Rubenstein
Title: Ex. V.P.
Address: 39 Avenue C, P.O. Box 8
Bayonne, NJ 07002

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): William Rubenstein
Title: Ex. V.P.
Address: 39 Avenue C, P.O. Box 8
Bayonne, NJ 07002

Ph. Number: (201) 437-6500

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR SUN CHEMICAL CORPORATION

Aug. 24, 2007
Date

Signature: _____

Name (print): Melvin M. Cox

Title: Sr. Vice President & General Counsel

Address: 35 Waterview Blvd.

Parsippany, N.J. 07054

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Michael Zachara

Title: _____

Address: Sun Chemical Corporation

35 Waterview Boulevard

Parsippany, NJ 07054

Ph. Number: 973-404-6439

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

FOR Union Carbide Corporation for itself
and Americal Corporation

August 29, 2007
Date

Signature: _____
Name (print): MICHAEL KAY
Title: ATTORNEY
Address: 2030 New Center
Midland, MI 48642

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): The Corporate Trust Company
Title: _____
Address: 820 BEAR TAVEN Rd
3rd Floor
West Trenton, NJ 08628
Ph. Number: _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. American Standard Inc., relating to the Martin Aaron Superfund Site.

Wyeth, acting on behalf of itself and its
FOR subsidiary Wyeth Pharmaceuticals Inc.

Date

Signature: _____
Name (print): Steven A. Tasher
Title: Vice President
Address: Wyeth
5 Giralda Farms
Madison, NJ 07940

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Ronald J. Schott
Title: Corporate Counsel
Address: Wyeth
5 Giralda Farms
Madison, NJ 07940
Ph. Number: 973-660-6641