UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

IN THE MATTER OF: Explo Systems, Inc. Site Camp Minden, Louisiana Louisiana Military Department Settling Respondent. United States Army Settling Federal Agency.	U.S. EPA Region 6 CERCLA Docket No. 06-08-14 **ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMOVAL ACTION** Proceeding Under Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMOVAL ACTIONS AND COSTS

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA"), the Louisiana Military Department ("Settling Respondent"), and the United States Department of the Army ("Army" or "Settling Federal Agency"). This Settlement Agreement provides for the performance of a removal action by Settling Respondent, the payment of certain response costs incurred by Settling Respondent by the Settling Federal Agency, and the payment of certain response costs incurred by the United States and the Louisiana Department of Environmental Quality, by the Settling Respondent at or in connection with the Explo Systems, Inc. Site ("Site") generally located on a portion of Camp Minden, La., and within the northwestern corner of the State of Louisiana, in Webster Parish, near the town of Doyline.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622 ("CERCLA"). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by EPA Delegation Nos. 14-14-C (Administrative Actions Through Consent Orders) and 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders). This authority was further redelegated by the Regional Administrator of EPA Region 6 to the Superfund Director by EPA Delegation Nos. R6-14-14-C and R6-14-14-D. This Settlement Agreement is also entered into pursuant to the authority of the Attorney General of the United States to compromise and settle claims of the United States.

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

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

II. PARTIES BOUND

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

6. Settling Respondent is liable for carrying out all activities required by this Settlement Agreement. Settling Respondent asserts that the Settling Federal Agency is liable to the Settling Respondent under Section 113 of CERCLA, 42 U.S.C. § 9613.

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

III. DEFINITIONS

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

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

"CBI" shall mean the Clean Burning Igniter powder in storage at the Site originating from Explo operations involving the demilitarization of materials from the United States Army.

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

"Effective Date" shall mean the effective date of this Settlement Agreement as provided in Section XXXII.

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

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

"Explo" shall mean Explo Systems, Inc., a former lessee and operator that conducted demilitarization and disposal operations at the Site.

"Future Removal Costs" shall mean those costs of response to M6 and CBI incurred by Settling Respondent to implement the Statement of Work that are necessary and consistent with the NCP, including but not limited to, payroll costs, contractor costs, travel costs, and laboratory costs, but shall not include any LDEQ costs over and above $20,000, any Past or Future Response Costs, any stipulated penalties, any costs associated with maintenance of magazines or access roads, any ongoing storage or routine security costs, or any costs associated with materials other than M6 propellant and CBI.

"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 deliverables submitted pursuant to this Settlement Agreement, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Section IX (Access) (including, but not limited to, the cost of attorney time and any monies paid to secure access including, but not limited to, the amount of just compensation), Section XIII (Emergency Response and Notification of Releases), Paragraph 89 (Work Takeover), community involvement [including, but not limited to, the costs of any technical assistance grant under Section 117(e) of CERCLA, 42 U.S.C. § 9617(e)], Section XV (Dispute Resolution), and all litigation costs. Future Response Costs shall also include Agency for Toxic Substances and Disease Registry ("ATSDR") costs regarding the Site, all Interim Response Costs, and all Interest on those Past Response Costs Settling Respondent has agreed to pay under this Settlement Agreement that has accrued pursuant to 42 U.S.C. § 9607(a) during the period from November 1, 2012 to September 12, 2014. "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 but not limited to direct and indirect costs, (a) paid by the United States in connection with the Site between September 12, 2014, and the Effective Date, or (b) incurred prior to the Effective Date, but paid after that date.

"LDEQ" shall mean the Louisiana Department of Environmental Quality and any successor departments or agencies of the State.

"LMD" shall mean the Louisiana Military Department.

"M6" or "M6 propellant" shall mean the M6 propellant in storage at the Site originating from Explo operations involving the demilitarization of materials from the United States Army.

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

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

"Parties" shall mean EPA, Settling Respondent and Settling Federal Agency.

"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 July 31, 2014, plus Interest on all such costs through such date.

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

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

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

"Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto. In the event of conflict between this Settlement Agreement and any Appendix, this Settlement Agreement shall control.

"Settling Federal Agency" shall mean the United States Army and its successor departments, agencies or instrumentalities.

"Settling Respondent" shall mean the Louisiana Military Department.

"Site" shall mean the Explo Systems, Inc. Site located at Camp Minden in the northwestern corner of the State of Louisiana, in Webster Parish, near the town of Doyline. The Site is comprised of the S-line which occupies 110 acres where Explo conducted demilitarization and disposal operations, and all areas where Explo stored explosive materials.

"The Explo Systems, Inc. Special Account" shall mean the special account within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

"The Explo Systems, Inc. Future Response Costs Special Account" shall mean the special account, within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3), and Paragraph 39.a (Prepayment of Future Response Costs).

"State" shall mean the State of Louisiana.

"Statement of Work" or "SOW" shall mean the Statement of Work for implementation of the removal action to be performed pursuant to this Settlement Agreement, as set forth in Appendix A, and any modifications made thereto in accordance with this Settlement Agreement.

"United States" shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA and Settling Federal Agency.

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

IV. FINDINGS OF FACT

8.1 In response to the release or threatened release of hazardous substances at or from the Site, response actions were undertaken at the Site consistent with Section 104 of CERCLA, 42 U.S.C. § 9604. For the purposes of this Settlement Agreement, EPA finds and the Settling Respondent and Settling Federal Agency neither admit nor deny the following findings:

a. The Explo Site is located on a portion of Camp Minden, La., in the northwestern corner of the State of Louisiana, in Webster Parish, near the town of Doyline. The Site includes the S-line, which occupies 110 acres where Explo conducted demilitarization operations, and all areas where Explo stored explosive materials. Camp Minden includes approximately 14,995 acres.

b. Explo utilized the Site property, magazines, and buildings to perform various operations associated with the demilitarization of military munitions and the management and sale of other materials. On March 24, 2010, Explo entered into a Resource Recovery and Recycling (R3) contract with the Army for the demilitarization of certain artillery 155MM propelling charges. The propelling charges included materials such as M6 propellant and clean burning igniter (CBI).

c. On October 15, 2012, an explosion of a magazine and a box van trailer containing black/smokeless powder and M6 propellant occurred at the Explo Site. The explosion shattered windows in Minden, La., located approximately four miles northeast of the Site, and produced a 7,000 foot mushroom cloud. As a result of the violations observed during inspection of the explosion, the Louisiana State Police ("LSP") served a search warrant on Explo. The search warrant was executed on November 27, 2012. During the search, LSP identified approximately 10 million pounds of unsecured and improperly stored M6 propellant among other explosive materials. The M6 propellant was stored in 60-pound cardboard boxes, 140-pound drums, and 880-pound super sacks throughout Site buildings, hallways, and outside where it could be exposed to the elements. From November 30, 2012, through December 7, 2012, people from the town of Doyline, Louisiana (i.e., approximately 400 homes) were voluntarily evacuated due to the potential hazard from the M6 propellant, and its proximity to the human population residing in Doyline, Louisiana. From November 28, 2012, through May 2013, the LSP and Explo secured and stored the M6 propellant in magazines at the Site.

d. Additional investigation of the Explo Site revealed the improper storage of other materials, in addition to the M6 propellant, such as black powder, Composition H6, ammonium perchlorate, Explosive D (ammonium picrate), M30 propellant, CBI, nitrocellulose, and tritonal mixed with wax/tar. Some of the chemicals included in the above materials include trinitrotoluene (TNT), 1,3,5- trinitrobenzene, dinitrotoluene, dibutylphthalate, nitroglycerin, cyclotrimethylenetrinitramine (RDX), and nitrocellulose. Some of these chemicals are CERCLA hazardous substances because they are either listed hazardous substances under 40 C.F.R. § 302.4, or characteristic hazardous waste under 40 C.F.R. § 261.23. Some of these materials are known to be highly reactive according to material safety data sheets. Incompatible hazardous materials are stored in close proximity to one another. There is currently no stability monitoring program in place for the M6 propellant and other materials at the Site.

e. Site investigations also show that Explo received some of the materials listed in paragraph 8.1.d from private companies, although the M6 propellant and CBI originated from Explo operations involving the demilitarization of materials from the Army. Explo utilized Site property and buildings to perform work required under demilitarization or recycling contracts with private companies, including GD-OTS, Alliant, and the Aqualon Company/Hercules Incorporated.

f. Site investigations show that some of the materials at the Site may present a risk of ignition and, therefore, a risk of injury to workers at the Site and nearby residents. The stability of the materials currently cannot be guaranteed due to the improper handling and storage conditions, as well as the passage of time, because stabilizers degrade over time. As such, the conditions at the Site show that the materials should be addressed in the near term. The volume of explosive and flammable materials, the condition of the approximately 97 storage magazines and many containers, the unknown stability of such materials, and incompatible storage of some materials may present a threat that could impact public health.

g. On or about September 6, 2013, the Governor of the State of Louisiana issued Proclamation No. 129 BJ 2013, which declares a state of emergency at Camp Minden based on Explo's failure to provide for the "monitoring, removal, or disposal of approximately 18 million pounds of M6 propellant and other explosives, which pose a continuing threat to the safety of citizens and property of the State in and around Camp Minden." This emergency declaration was sustained for many months, and remains in effect.

h. The LSP commenced license revocation proceedings against Explo on May 20, 2013. The LM/NG commenced eviction proceedings against Explo for delinquent rent and expenses on July 22, 2013. The Webster Parish, Louisiana, District Attorney's Office issued a criminal indictment against several of Explo's executives and officers on June 10, 2013. In addition, the United States Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) issued a notice of license revocation on August 5, 2013, due to a criminal indictment pending against Explo.

i. On August 12, 2013, Explo filed for Chapter 11 bankruptcy in the United States Bankruptcy Court, Western District of Louisiana, Shreveport Division, Case No.13-12046. At a September 23, 2013, hearing the U.S. Bankruptcy Court granted the Louisiana State Department of Public Safety and Corrections and LM/NG's motion to take possession of and confiscate all of Explo's explosives located at Camp Minden, and possession of all leased premises and premises where the explosives were stored. The Bankruptcy Court terminated all leases between Explo and LM/NG. On September 30, 2013, the Bankruptcy Court approved an agreement transferring title and ownership of the M6 and other explosives stored at Camp Minden, La., from Explo to the LM/NG.

j. In performing response actions at the Site including site inspections, investigations, testing and sampling of materials, and determining appropriate removal measures for the Site, response costs at or in connection with the Site were incurred.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

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

a. The Explo Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

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

c. Settling Respondent and Settling Federal Agency are "persons" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21). Based upon the findings, the Settling Respondent is alleged to be a responsible party under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1), due to its

current ownership of the Site. It is alleged that the Settling Federal Agency is a responsible party, and liable in contribution to Settling Respondent pursuant to Section 113(f) of CERCLA, 42 U.S.C. § 9613(f)(1).

d. The conditions described in Paragraphs 8.1 c-f, of the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

e. The removal action required by this Settlement Agreement is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Settlement Agreement, will be consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

VI. SETTLEMENT AGREEMENT AND ORDER

10. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the administrative record, it is hereby Ordered and Agreed that Settling Respondent and Settling Federal Agency shall comply with all provisions of this Settlement Agreement, as applicable, including, but not limited to, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

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

11. Settling Respondent shall retain one or more contractors to perform the Work and shall notify EPA of the names and qualifications of such contractors within 90 days after the Effective Date. Settling Respondent shall also notify EPA of the names and qualifications of any other contractors or subcontractor retained to perform the Work at least 7 days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Settling Respondent. If EPA disapproves of a selected contractor, Settling Respondent shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within 14 days after EPA's disapproval.

12. Within 10 days after the Effective Date, Settling Respondent shall designate a Project Coordinator who shall be responsible for administration of all actions by Settling Respondent required by this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Settling Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within 14 days following EPA's disapproval. Notice or communication relating to

this Settlement Agreement from EPA to Settling Respondent's Project Coordinator shall constitute notice or communication to the Settling Respondent. EPA has designated Paige Delgado of the Response and Prevention Branch, as its On-Scene Coordinator ("OSC"). EPA and Settling Respondent shall have the right, subject to this Paragraph, to change their respective designated OSC or Project Coordinator. Settling Respondent shall notify EPA 7 days before such a change is made. The initial notification by Settling Respondent may be made orally, but shall be promptly followed by a written notice.

13. Except as otherwise provided in this Settlement Agreement, Settling Respondent shall direct all submissions required by this Settlement Agreement to the OSC at:

Paige Delgado
On-Scene Coordinator
United States Environmental Protection Agency
Response and Prevention Branch (6SF-RR)
1445 Ross Avenue
Dallas, Texas 75202-2733

14. Settling Respondent shall submit 3 copies of all plans, reports, or other deliverables required by this Settlement Agreement, the Statement of Work ("SOW"), or any approved work plan. Upon request by EPA, Settling Respondent shall submit such documents in electronic form. All data evidencing Site conditions shall be submitted to EPA in electronic form.

15. The OSC shall be responsible for overseeing Settling Respondent's implementation of this Settlement Agreement. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

VIII. WORK TO BE PERFORMED

16. Settling Respondent shall perform, at a minimum, all actions necessary to implement the Statement of Work. The actions to be implemented generally include, but are not limited to, the following:

a. Settling Respondent shall conduct a removal action of the following materials currently stored at the Site to include: 1) approximately 15,687,247 pounds of M6 propellant; and 2) approximately 320,890 pounds of clean burning igniter (CBI). The Settling Respondent shall also conduct response actions to address the effluent, ammonium perchlorate, and ammonium picrate identified in Paragraph 16.p.

b. The Settling Respondent shall conduct on-site response and burning operations for the M6 propellant and CBI. The Settling Respondent shall conduct open burning via the use of burn trays for the disposition of the M6 and CBI.

c. Settling Respondent shall generate and provide a proposed work plan that includes, but is not limited to staffing requirements and limitations, travel/mobilization costs and requirements, necessary equipment as well as availability/limitations of necessary equipment required and available materials, the proposed disposition method, total and itemized cost, and duration for each phase (if applicable), and timeline/schedule.

d. Limitations concerning the volume to be destroyed should be accounted for when calculating the total cost and time required for disposition of the total volume of materials listed in 16.a. Potential limitations are:

- Minimum safe distance limitations on the maximum volume of material that can be disposed of at one time;

-Limitations due to the maximum volume of material that can be disposed of each day, due to maintenance of the disposition areas or other reasons;

-Permit and/or capacity requirements/limitations for volume and/or location of the disposition; and

-Provide any other limitations, qualifications, assumptions that impact the implementation of the proposed work plan.

e. Settling Respondent shall establish procedures to determine the priority of the removal of the materials listed above in Paragraph 16.a. The Respondent shall maintain the prioritization program by conducting periodic assessment of the explosive storage magazines and/or materials listed above in Paragraph 16.a and adjust the prioritization accordingly.

f. Settling Respondent shall verify and provide the availability of licensed and experienced personnel that will be available. The proposed Work Plan shall reflect compliance with State and Federal statutory requirements. Respondent shall provide their process for ensuring compliance with State and Federal statutory requirements.

g. Settling Respondent shall prepare a Spill and Emergency Response Contingency Plan - Respondent must implement the plan after approval by the OSC. The following items must be addressed in detail – (1) Response to spills or releases at and/or from the Site to address both the workers on-site and the public exposure, (2) Response analysis for conceivable occurrences (i.e. who and what will respond, alternative communication methods), (3) Call-down list for notification, (4) Coordination mechanism with State and local authorities.

h. Settling Respondent shall inspect the magazines containing the materials listed above in Paragraph 16.a. and conduct maintenance or repairs as necessary to safely access and store hazardous and/or explosive materials. Magazine maintenance and/or repairs should be conducted in compliance with the safety procedures for Camp Minden.

i. Settling Respondent shall conduct fire protective measures to maintain a low fuel burden around explosive magazine storage areas. Settling Respondent shall respond to and take actions to control fires in compliance with the safety procedures for Camp Minden.

j. Settling Respondent shall continue to provide the routine security measures in place for Camp Minden as well as provide additional security measures as necessary to support the removal of the materials listed above in Paragraph 16.a.

k. Settling Respondent shall provide explosive storage magazines for the continued storage of the materials listed above in Paragraph 16.a. to include the 97 currently utilized explosive storage magazines and any additional available magazine space, or storage containers, as needed to support the removal of the materials listed above in Paragraph 16.a.

l. Settling Respondent shall provide continued access for EPA Agents, representatives, contractors, and other assets throughout the removal of the materials listed above in Paragraph 16.a. Access will be required during normal working hours unless arranged for in advance.

m. Settling Respondent shall maintain access roads to all work areas necessary for the removal of the materials listed above in Paragraph 16.a. Settling Respondent shall allow the use of Camp Minden Site property for the open burning of materials listed in Paragraph 16.a. Settling Respondent shall clear the Camp Minden Site property designated for the burning of materials listed in Paragraph 16.a.

n. Settling Respondent shall allow the use of its forklifts and loading ramps to facilitate the open burning of materials listed in Paragraph 16.a.

o. Settling Respondent shall propose achievable milestones by which to gauge the work performed (i.e., date to initiate action, date to complete the removal of 25%, 50%, 75% of the material, completion date for the removal of all materials listed in 16.a.).

p. Settling Respondent shall conduct a removal action of the effluent associated with the Super Critical Water Oxidation Unit (SCWO) at the Site, four 55-gallon drums of ammonium perchlorate, two 35-gallon drums of ammonium perchlorate, and three 55-gallon drums of ammonium picrate. Settling Respondent shall conduct appropriate disposition actions for the SCWO effluent, ammonium perchlorate, and ammonium picrate, and take other actions consistent with Paragraph 16.c-o.

17. Work Plan and Implementation.

a. Within 120 days after the Effective Date, Settling Respondent shall submit to EPA for approval a draft work plan for performing the removal action (the "Removal Work Plan") generally described in Paragraph 16 above. The draft Removal Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement.

b. EPA may approve, disapprove, require revisions to, or modify the draft Removal Work Plan in whole or in part. If EPA requires revisions, Settling Respondent shall submit a revised draft Removal Work Plan within 14 days after receipt of EPA's notification of the required revisions. Respondent shall implement the Removal Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Removal Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Settlement Agreement.

c. Upon approval of the Removal Work Plan Settling Respondent shall commence implementation of the Work in accordance with the schedule included therein. Settling Respondent shall not commence any Work except in conformance with the terms of this Settlement Agreement.

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

18. Health and Safety Plan.

a. Within 120 days after the Effective Date, Settling Respondent shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-site work under this Settlement Agreement. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the plan shall also include contingency planning. Settling Respondent shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

19. Quality Assurance, Sampling, and Data Analysis.

a. Settling Respondent shall use quality assurance, quality control, and other technical activities and chain of custody procedures for all samples consistent with "EPA Requirements for Quality Assurance Project Plans (QA/R5)" (EPA/240/B-01/003, March 2001, reissued May 2006), "Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/240/R-02/009, December 2002), and subsequent amendments to such guidelines upon notification by EPA to Settling Respondent of such amendment. Amended guidelines shall apply only to procedures conducted after such notification.

b. Prior to the commencement of any monitoring project under this Settlement Agreement, Settling Respondent shall submit to EPA for approval, a Quality Assurance Project Plan ("QAPP") that is consistent with the SOW, and the NCP. Settling Respondent shall ensure that EPA and State regulator personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Settling Respondent in implementing this Settlement Agreement. In addition, Settling Respondent shall ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPP for quality assurance, quality control, and technical activities that will satisfy the stated performance criteria as specified in the QAPP. Settling Respondent shall ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Settlement Agreement perform all analyses according to accepted EPA methods. Accepted EPA methods consist of, but are not limited to, methods that are documented in the EPA's Contract Laboratory Program (http://www.epa.gov/superfund/programs/clp/), SW 846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (http://www.epa.gov/epawaste/hazard/testmethods/sw846/online/index.htm), "Standard Methods for the Examination of Water and Wastewater" (http://www.standardmethods.org/), 40 C.F.R. Part 136, "Air Toxics - Monitoring Methods" (http://www.epa.gov/ttnamti1/airtox.html)," and any amendments made thereto during the course of the implementation of this Settlement Agreement. However, upon approval by EPA, Settling Respondent may use other appropriate analytical methods, as long as: (a) quality assurance/quality control ("QA/QC") criteria are contained in the methods and the methods are included in the QAPP, (b) the analytical methods are at least as stringent as the methods listed above, and (c) the methods have been approved for use by a nationally recognized organization responsible for verification and publication of analytical methods, e.g., EPA, ASTM, NIOSH, OSHA, etc. Settling Respondent shall ensure that all laboratories they use for analysis of samples taken pursuant to this Settlement Agreement have a documented

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), and "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001, reissued May 2006), or equivalent documentation as determined by EPA. EPA may consider Environmental Response Laboratory Network ("ERLN") laboratories, laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP"), or laboratories that meet International Standardization Organization (ISO 17025) standards or other nationally recognized programs (http://www.epa.gov/fem/accredit.htm) as meeting the Quality System requirements. Settling Respondent shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Settlement Agreement are conducted in accordance with the procedures set forth in the QAPP approved by EPA.

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

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

20. Notwithstanding any provision of this Settlement Agreement, the EPA and LDEQ retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes and regulations.

21. Post-Removal Site Control. In accordance with the Removal Work Plan schedule, or as otherwise directed by EPA, Settling Respondent shall submit a proposal for Post-Removal Site Control which shall include, but not be limited to a Post-Removal Site Control and Implementation Plan specifying the objectives, and who is responsible for implementation, monitoring, inspection, reporting and enforcement. Upon EPA approval, Settling Respondent shall either conduct Post-Removal Site Control activities, or obtain a written commitment from another party for conduct of such activities, until such time as EPA determines that no further

Post-Removal Site Control is necessary. Settling Respondent shall provide EPA with documentation of all Post-Removal Site Control commitments.

22. Reporting.

a. Settling Respondent shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement Agreement every 21st day after the date of receipt of EPA's approval of the Work Plan until issuance of Notice of Completion of Work pursuant to Section XXVIII, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

23. Final Report. Within 30 days after completion of all Work required by this Settlement Agreement, other than continuing obligations listed in Paragraph 96 (notice of completion), Settling Respondent shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Settlement Agreement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." Settling Respondent shall comply with "Superfund Removal Procedures: Removal Response Reporting – POLREPS and OSC Reports" (OSWER Directive No. 9360.3-03, June 1, 1994). The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement Agreement, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a responsible corporate official of a Settling Respondent or Settling Respondent's Project Coordinator: - " I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

24. Off-Site Shipments.

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

with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Settling Respondent's will be deemed to be in compliance with CERCLA Section 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if Settling Respondent obtains a prior determination from EPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b). Settling Respondent may ship Investigation Derived Waste (IDW) from the Site to an off-site facility only if Settling Respondent complies with EPA's "Guide to Management of Investigation Derived Waste," OSWER 9345.3-03FS (Jan. 1992).

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

IX. ACCESS

25. If the Site, or any other real property where access and/or land, water, or other resource use restrictions are needed, is owned or controlled by the Settling Respondent:

a. Such Settling Respondent shall, commencing on the Effective Date, provide the United States and their representatives, contractors, and subcontractors, with access at all reasonable times to the Site, or such other real property, to conduct any activity regarding the Settlement Agreement including, but not limited to, the following activities:

(1) Monitoring the Work;

(2) Verifying any data or information submitted to EPA;

(3) Conducting investigations regarding 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 QAPP;

(7) Implementing the Work pursuant to the conditions set forth in Paragraph 65 (Work Takeover);

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

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

(10) Determining whether the Site or other real property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under the Settlement Agreement.

26. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Settling Respondent's, Settling Respondent shall use its best efforts to obtain all necessary access agreements within 7 days after the Effective Date, or as otherwise specified in writing by the OSC. Settling Respondent shall immediately notify EPA if after using their best efforts it was unable to obtain such agreements. For purposes of this Section, "best efforts" includes the payment of reasonable sums of money in consideration of access. Settling Respondent shall describe in writing its efforts to obtain access. EPA may assist Settling Respondent in gaining access, to the extent necessary to effectuate the response actions described in this Settlement Agreement, using such means as EPA deems appropriate.

27. Settling Respondent shall reimburse EPA for all costs incurred, direct or indirect, by the United States in obtaining such access, including, but not limited to, the cost of attorney time and the amount of monetary consideration paid or just compensation, in accordance with the procedures in Section XV (Payment of Response Costs). The Settling Respondent will not be responsible for reimbursement of access costs under this Paragraph as long as Settling Respondent provides EPA will the access needed to completely accomplish the terms and conditions of this Settlement Agreement.

X. ACCESS TO INFORMATION

28. Settling Respondent shall provide to EPA, upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within Settling

Respondent's possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Work. Settling Respondent shall also make available to EPA, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

29. Privileged and Protected Claims.

a. Settling Respondent may assert that all or part of a Record requested by EPA is privileged or protected as provided under Federal law, in lieu of providing the Record, provided Settling Respondent complies with Paragraph 29.b and except as provided in Paragraph 29.c.

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

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

(1) any data regarding the Site, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidence conditions at or around the Site; or

(2) the portion of any Record that Settling Respondent is required to create or generate pursuant to this Settlement Agreement.

30. Business Confidential Claims. Settling Respondent may assert that all or part of a Record provided to EPA under this Section or Section XI (Retention of Records) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Settling Respondent shall segregate and clearly identify all Records or parts thereof submitted under this Settlement Agreement for which Settling Respondent asserts business confidentiality claims. Records submitted to EPA 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 Records when they are submitted to EPA or if EPA has notified Settling Respondent that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such Records without further notice to Settling Respondent.

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

XI. RECORD RETENTION

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

33. At the conclusion of the document retention period, Settling Respondent shall notify EPA at least 90 days prior to the destruction of any Records, and, upon request by EPA, and except as provided in Paragraph 29 (Privileged and Protected Claims), Settling Respondent shall deliver any such records to EPA.

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

34.1 The United States acknowledges that the Settling Federal Agency is subject to all applicable Federal record retention laws, regulations, and policies.

XII. COMPLIANCE WITH OTHER LAWS

35. Nothing in this Settlement Agreement limits Settling Respondent's obligations to comply with the requirements of all applicable State and Federal laws and regulations, except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-site actions required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under Federal environmental or State environmental or facility siting laws. Settling Respondent shall identify ARARs in the Removal Work Plan subject to EPA approval.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

36. Emergency Response. In the event any action or occurrence during performance of the Work causes or threatens a release of any hazardous substances, pollutants, or contaminants from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Respondent shall immediately take all appropriate action. Settling Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate, or minimize such release or endangerment caused or threatened by the release. Settling Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, the Regional Response and Prevention Branch, EPA Region 6, at 1-866-EPA-SPIL (or 1-866-372-7745), of the incident or Site conditions. In the event that Settling Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Settling Respondent shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XIV (Payment of Response Costs).

37. Release Reporting. In addition, in the event of any release of a hazardous substance from the Site, Settling Respondent shall immediately notify the OSC at the Regional Response and Prevention Branch, EPA Region 6, at 1-866-EPA-SPIL (or 1-866-372-7745), and the National Response Center at (800) 424-8802. Settling Respondent shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

XIV. PAYMENT OF RESPONSE AND REMOVAL COSTS

38. Payment by Settling Respondent for Past Response Costs.

a. Within 30 days after the Settling Respondent receives insurance proceeds as a result of its insurance litigation against the insurers of Explo System, Inc., Settling Respondent shall pay to EPA $933,752.33 for Past

Response Costs. Settling Respondent shall make the above Past Response Costs to EPA based upon the following priority. Settling Respondent agrees to pay any and all insurance proceeds assigned to Settling Respondent as follows:

i) $933,752.33 in EPA Past Response Costs; and EPA Future Response Costs over and above $1,220,000.00;

ii) Any Settling Respondent insurance proceeds remaining after making payment under Paragraph 38.a.i. shall be used to pay for Future Removal Costs over and above $24,140,810.16 for addressing the M6 propellant and CBI at the Site;

iii) If the insurance proceeds assigned to the Settling respondent are sufficient to pay EPA's Past Costs and EPA's Future Response Cost above $1,220,000.00 and Future Removal Costs above $24,140,810.16; for addressing the M6 propellant and CBI at the Site; then Settling Respondent shall pay LDEQ's oversight costs above $50,000.00;

iv) Any Settling Respondent insurance proceeds remaining after making payment under this Paragraph shall remain with the Settling Respondent.

(1) Payment to EPA shall be made to EPA by Fedwire Electronic Funds Transfer ("EFT") to:

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

and shall reference Site/Spill ID NumberA6GH and the EPA docket number for this action.

Settling Respondent may note the availability to make payment by ACH. For ACH payment: Payment by Settling Respondent shall be made to EPA by Automated Clearinghouse ("ACH") to:

PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706

Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

and shall reference Site/Spill ID Number A6GH and the EPA docket number for this action.

For online payment:

Payment shall be made at https://www.pay.gov to the U.S. EPA account in accordance with instructions to be provided to Settling Respondent by EPA.

b. At the time of payment to EPA, Settling Respondent shall send notice that payment has been made to:

Section Chief, Enforcement Assessment (6SF-TE)
U.S. EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, Texas 75202-2733

and to the EPA Cincinnati Finance Office by email at cinwd_acctsreceivable@epa.gov, or by mail to:

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

Such notice shall reference Site/Spill ID Number A6GH and the EPA docket number for this action.

c. The total amount to be paid by Settling Respondent to EPA pursuant to Paragraph 38.a shall be deposited by EPA in the EPA Explo Site Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund. The total amount to be paid by the Settling Respondent to EPA under Paragraph 38 (Payment of Past Costs) is limited to insurance proceeds awarded to the Settling Respondent from Explo's insurers. The total amount to be paid by the Settling Respondent to EPA under Paragraph 39 (Payment of Future Response and Removal Costs) is limited to $1,220,000.00 from the State's $1,250,000.00 fund, and insurance proceeds awarded to the Settling Respondent.

d. The total amount to be paid by the Settling Respondent to LDEQ under Paragraph 39 (Payment of Future Response and Removal Costs) is limited to $30,000.00 from the State's $1,250,000.00 fund, and $20,000.00 in Future Removal Costs.

38.1 Payments by Settling Federal Agency.

a. Payment to EPA.

(1) The United States, on behalf of the Settling Federal Agency is not responsible for making any payment of Past Response Costs and Future Response Costs to EPA.

b. Payment to Settling Respondent. The United States, on behalf of the Settling Federal Agency, agrees to pay for 100% of the Future Removal Costs. As soon as reasonably practicable after the Effective Date, the United States, on behalf of Settling Federal Agency, shall pay $19,312,648.13 as an Initial Payment of the Future Removal Costs by ACH Electronic Funds Transfer in accordance with instructions provided by Settling Respondent ("Initial Payment"). Within six (6) months of commencing the physical on-site construction of the removal response work as identified in Paragraph 16, Settling Respondent shall submit a Six-Month Work and Cost Progress Report to the Section Chief of the Environmental Defense Section of the United States Department of Justice (DOJ), with a copy to the EPA. The Settling Respondent shall include a costs incurred invoice with details concerning the work performed in the Six-Month Work and Cost Progress Report; a statement of the costs incurred by the Settling Respondent during the six month period; sufficient documentation to allow verification of the accuracy of the costs incurred consistent with 40 C.F.R. § 300.160(a)(1); proof of payment of all the costs included in the invoice; and certification under penalty of law that such costs were properly incurred and consistent with Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4)(B), and this Settlement Agreement.

The Six-Month Work and Cost Progress Report shall also include an updated estimate of costs to complete the remaining work at the Site. The Settling Respondent shall include sufficient updated cost estimate information including, a description of the remaining work to be performed at the Site; the personnel required to complete the work; the equipment necessary to complete the work; the materials necessary to complete the work; and the costs associated with the remaining work, personnel required, equipment, and materials. If the updated cost estimate to complete the work exceeds the remaining portion of the United States' Initial Payment, then the United States on behalf of the Settling Federal Agency shall pay 80% of the updated cost estimate amount, less the amount of any insurance proceeds to be paid for Future Removal Costs in accordance with Paragraph 38.a, as soon as reasonably practicable after receiving the updated cost estimate, provided DOJ approves the updated cost estimate and invoice. DOJ will have forty-five (45) days to review and approve, approve with modifications, or disapprove the

Settling Respondent's updated cost estimate and invoice documenting the costs incurred by the Settling Respondent.

Any future additional payments for Settling Respondent's updated costs estimates (i.e., that includes the cost-estimate information required in this Paragraph) shall also be limited to 80% of the updated costs estimates, less the amount of any insurance proceeds to be paid for Future Removal Costs in accordance with Paragraph 38.a, and follow the approval, approval with modifications, or disapproval process specified in this Paragraph. The Settling Respondent shall also submit an invoice (i.e., that also includes invoice documentation and sufficient cost documentation specified in this Paragraph) before the United States on behalf of Settling Federal Agency makes any future additional payments based upon updated cost estimates submitted by the Settling Respondent. All updated cost estimates and invoices must be submitted to DOJ with a copy to EPA. DOJ will utilize the approval, approval with modifications, and disapproval process provided in this Paragraph for additional invoices submitted by the Settling Respondent.

c. Notwithstanding the above, the United States on behalf of Settling Federal Agency and the Settling Respondent may at any time agree to a final cash-out payment from the United States on behalf of Settling Federal Agency to the Settling Respondent. Any final cash-out payment shall be based upon the Settling Respondent's submission of invoice and updated cost estimate information required under this Paragraph, and follow the approval, approval with modifications, or disapproval process required in this Paragraph.

(1) Except as otherwise provided in this Settlement Agreement, Settling Respondent and Settling Federal Agency shall direct all submissions required under this Paragraph to:

Chief, Environmental Defense Section
Environment and Natural Resources Division
U.S. Department of Justice (Re: DJ# 90-7-3-20143)
P.O. Box 7611
Washington, DC 20044

Ron Stuckey Project Coordinator
Camp Minden
Louisiana Military Department
100 Louisiana Avenue
Minden, Louisiana 71005

Section Chief, Enforcement Assessment (6SF-TE)
United States Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733

d. The Parties to this Settlement Agreement recognize and acknowledge that the payment obligations of the United States on behalf of Settling Federal Agency under this Settlement Agreement can only be paid from appropriated funds legally available for such purpose. Nothing in this Settlement Agreement shall be interpreted or construed as a commitment or requirement that the United States and/or 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.

e. Interest. In the event that the Initial Payment required by 38.1.b is not made within 180 days after the Effective Date, the United States on behalf of Settling Federal Agency shall pay Interest on the unpaid balance at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), with such Interest commencing on the 180th day after the Effective Date through the date of the payment.

39. Payments by Settling Respondent for Future Response and Removal Costs. Settling Respondent shall pay EPA all Future Response Costs not inconsistent with the NCP.

a. Prepayment of Future Response Costs. Within 30 days after the Effective Date, Settling Respondent shall pay to EPA $1,220,000.00 as a prepayment of Future Response Costs. Payment shall be made in accordance with Paragraphs 38.a.1 (Payment for Past Response Costs) and 38.b. The total amount paid shall be deposited by EPA in the Explo Site Future Response Costs Special Account. These funds shall be retained and used by EPA to conduct or finance future response actions at or in connection with the Site.

b. On a periodic basis and upon Settling Respondent's receipt of insurance proceeds, EPA will send Settling Respondent a bill requiring payment that is consistent with and accounts for the pay priority identified in Paragraph 38.a, including a Costs Summary (standard cost accounting summary), which includes direct and indirect costs incurred by EPA, its contractors, subcontractors, and the United States Department of Justice. Settling Respondent shall make all payments within 30 days after Settling Respondent's receipt of each bill requiring payment, except as otherwise provided in Paragraph 41. Payment shall be made in accordance with Paragraphs 38.a.1 (Payments for Past Response Costs) and 38.b.

c. All payments made by Settling Respondent pursuant to Paragraphs 39.a and 39.b. shall be deposited by EPA in the Explo Site Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund, provided, however, that EPA may deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund if, at the time the payment is received,

EPA estimates that the Explo Site Special Account balance is sufficient to address currently anticipated future response actions to be conducted or financed by EPA at or in connection with the Site. Any decision by EPA to deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund for this reason shall not be subject to challenge by Settling Respondent pursuant to the dispute resolution provisions of this Settlement Agreement or in any other forum.

d. After EPA issues the Notice of Completion of Work pursuant to Paragraph 96 and a final accounting of Explo Site Future Response Costs Special Account (including crediting Settling Respondent for any amounts received under Paragraphs 39.a (prepayment), or 39.b (periodic bill), EPA will remit and return to Settling Respondent any unused amount of the funds paid by Settling Respondent pursuant to Paragraph 39.a.

e. Payment to LDEQ for Oversight and Removal Costs – Settling Respondent shall pay $30,000 to LDEQ from the State's $1,250,000.000 fund. Settling Respondent shall also pay $20,000 to LDEQ in Future Removal Costs. Payment shall be made to LDEQ consistent with the instructions LDEQ provides to Settling Respondent.

40. Interest. In the event that the payment for Past Response Costs is not made within 30 days after the Settling Respondent receives insurance proceeds, or the payments for Future Response Costs are not made within 30 days after Settling Respondent's receipt of a bill, Settling Respondent shall pay Interest on the unpaid balance. The Interest on Past Response Costs shall begin to accrue 30 days after the Settling Respondent receives insurance proceeds, and shall continue to accrue until the date of payment. The Interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Settling Respondent's failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVII (Stipulated Penalties). Settling Respondent's responsibility to pay interest shall be subject to appropriations from the State Legislature. Settling Respondent shall seek appropriations from the State legislature for interest assessed under this Settlement Agreement.

41. Resolution of Disputes with Settling Respondent Concerning Payment of Future Response Costs. Settling Respondent may submit a Notice of Dispute, initiating the procedures of Section XV (Dispute Resolution) regarding payment of any Future Response Costs billed under Paragraph 39 if it determines that EPA has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. Such Notice of Dispute shall be submitted in writing within 30 days after receipt of the bill and must be sent to the OSC. Any such Notice of Dispute shall specifically identify the contested Future Response Costs and the basis for objection. If Settling Respondent submits a Notice of Dispute, Settling Respondent shall within the 30-day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 39.

Simultaneously, Settling Respondent shall utilize a mechanism within its accounting and funding to earmark, set aside, and maintain funds equivalent to the amount of the contested Future Response Costs. Settling Respondent shall send to the OSC a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes the accounting and funding mechanism demonstrating the funds are earmarked, set aside, and maintained in a manner that assures the funds (i.e., equivalent to the contested amount) will be available should payment to EPA be required. If EPA prevails in the dispute, within 5 days after the resolution of the dispute, Settling Respondent shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 39. If Settling Respondent prevails concerning any aspect of the contested costs, Settling Respondent shall pay that portion of the costs (plus associated accrued interest) for which it did not prevail to EPA in the manner described in Paragraph 39. Settling Respondent shall be disbursed any balance of the funds earmarked and set aside. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Settling Respondent's obligation to reimburse EPA for its Future Response Costs.

XV. DISPUTE RESOLUTION

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

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

44. Formal Dispute Resolution. If the EPA and Settling Respondent are unable to reach an agreement within the Negotiation Period, Settling Respondent shall, within 14 days after the end of the Negotiation Period, submit a statement of position to the OSC. EPA may, within 14 days thereafter, submit a statement of position. Thereafter, an EPA management official at the Superfund Division Director level or higher will issue a written decision on the dispute to Settling Respondent. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Following resolution of the dispute, as provided by this Section, Settling Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

45. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone, or affect in any way any obligation of Settling Respondent under this Settlement Agreement, not directly in dispute, unless EPA provides otherwise in writing. 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 54. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Settlement Agreement. In the event that Settling Respondent does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XVII (Stipulated Penalties).

XVI. FORCE MAJEURE

46. "Force Majeure" for purposes of this Settlement Agreement, is defined as any event arising from causes beyond the control of Settling Respondent, of any entity controlled by Settling Respondent, or of Settling Respondent's contractors that delays or prevents the performance of any obligation under this Settlement Agreement despite Settling Respondent's best efforts to fulfill the obligation. The requirement that Settling Respondent exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. "Force majeure" does not include financial inability to complete the Work, or increased cost of performance, or a failure to attain performance standards set forth in the Statement of Work.

47. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement for which Settling Respondent intends or may intend to assert a claim of force majeure, Settling Respondent shall notify EPA's OSC orally or, in his or her absence, the alternate EPA OSC, or, in the event both of EPA's designated representatives are unavailable, the Director of the Superfund Division, EPA Region 6, within 48 hours of when Settling Respondent first knew that the event might cause a delay. Within 5 days thereafter, Settling Respondent shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Settling Respondent's rationale for attributing such delay to a force majeure; and a statement as to whether, in the opinion of Settling Respondent, such event may cause or contribute to an endangerment to public health or welfare, or the environment. Settling Respondent shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Settling Respondent shall be deemed to know of any circumstance of which Respondent, any entity controlled by Settling Respondent, or Settling Respondent's contractors knew or should have known. Failure to comply with the above requirements regarding an event shall preclude Settling Respondent from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under Paragraph 46 and whether Settling Respondent has

exercised its best efforts under Paragraph 46, EPA may, in its unreviewable discretion, excuse in writing Settling Respondent's failure to submit timely or complete notices under this Paragraph.

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

49. If Settling Respondent elects to invoke the dispute resolution procedures set forth in Section XV (Dispute Resolution), they shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Settling Respondent shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Settling Respondent complied with the requirements of Paragraphs 46 and 47. If Settling Respondent carry this burden, the delay at issue shall be deemed not to be a violation by Settling Respondent of the affected obligation of this Settlement Agreement identified to EPA.

XVII. STIPULATED PENALTIES

50. Settling Respondent shall be liable for stipulated penalties in the amounts set forth in Paragraphs 51 and 52 to EPA for failure to comply with the requirements of this Settlement Agreement specified below, unless excused under Section XVI (Force Majeure). "Compliance" by Settling Respondent shall include completion of all payments and activities required under this Settlement Agreement, or any plan, report, or other deliverable approved under this Settlement Agreement, in accordance with all applicable requirements of law, this Settlement Agreement, the SOW, and any plans, reports, or other deliverables approved under this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement. Settling Respondent shall seek appropriations from the State legislature for stipulated penalties assessed under this Settlement Agreement. Settling Respondent may seek relief from the obligation to pay stipulated penalties pursuant to this Settlement Agreement under the provisions of Section XVI (Force Majeure) to the extent its liability for such penalties is the result solely of the non-payment of funds under Paragraph 38.1.b. The Parties to this Settlement Agreement recognize and acknowledge that stipulated penalties under this Settlement Agreement can only be paid by Settling Respondent from appropriated funds legally available for such purpose. Nothing in this Section of this Settlement Agreement shall be interpreted or construed as a commitment or requirement that Settling Respondent Agency obligate or pay funds in contravention of State appropriations or other applicable law.

51. Stipulated Penalty Amounts - Work (Including Payments and Excluding Plans, Reports, and Other Deliverables).

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Paragraph 51.a:

Penalty Per Violation Per Day	Period of Noncompliance
$2,000	1st through 14th day
$3,000	15th through 30th day
$5,000	31st day and beyond

b. Compliance Milestones - Violations of compliance milestones, including due dates for payments for establishing escrow accounts to hold disputed Future Response Costs; milestones under Section XXV (Financial Assurance) to establish and maintain financial assurance; and due dates to establish insurance under Section XXIV (Insurance) shall result in stipulated penalties accruing per violation and per day, as provided under Paragraph 51.b.

Penalty Per Violation Per Day	Period of Noncompliance
$1,000	1st through 14th day
$2,000	15th through 30th day
$3,000	31st day and beyond

52. Stipulated Penalty Amounts - Plans, Reports, and Other Deliverables. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports, or other plans or deliverables pursuant to this Settlement Agreement:

Penalty Per Violation Per Day	Period of Noncompliance
$2,000	1st through 14th day
$3,000	15th through 30th day
$5,000	31st day and beyond

53. In the event that EPA assumes performance of all or any portions of the Work pursuant to Paragraph 65 (Work Takeover), Settling Respondent shall be liable for a stipulated penalty in the amount of 25,000. Stipulated penalties under this Paragraph are in addition to the funding available to EPA under Paragraph 89.

54. 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: (a) with respect to a deficient submission under Paragraph 17 (Work Plan and Implementation), during the period, if any, beginning on the 31st day after EPA's receipt of such

submission until the date that EPA notifies Settling Respondent of any deficiency; and (b) with respect to a decision by the EPA Management Official at the Superfund Division Director level or higher, under Paragraph 44 of Section XV (Dispute Resolution), during the period, if any, beginning the 21st day after the Negotiation Period begins until the date that the EPA Management Official issues a final decision regarding such dispute. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement. Penalties shall continue to accrue during any dispute resolution period, and shall be paid within 15 days after the agreement or the receipt of EPA's decision or order.

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

56. All penalties accruing under this Section shall be due and payable to EPA within 30 days after Settling Respondent's receipt from EPA of a demand for payment of the penalties, unless Settling Respondent invoke the Dispute Resolution procedures under Section XV (Dispute Resolution) within the 30-day period. All payments to EPA under this Section shall indicate that the payment is for stipulated penalties and shall be made in accordance with Paragraph 39 (Payments for Future Response and Removal Cost).

57. If Settling Respondent fails to pay stipulated penalties when due, Settling Respondent shall pay Interest on the unpaid stipulated penalties as follows: (a) if Settling Respondent has timely invoked dispute resolution such that the obligation to pay stipulated penalties has been stayed pending the outcome of dispute resolution, Interest shall accrue from the date stipulated penalties are due pursuant to Paragraph 54 until the date of payment; and (b) if Settling Respondent fails to timely invoke dispute resolution, Interest shall accrue from the date of demand under Paragraph 56 until the date of payment. If Settling Respondent fails to pay stipulated penalties and Interest when due, the United States may institute proceedings to collect the penalties and Interest.

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

59. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Settling Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and 122(*l*) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(*l*), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), provided however, that the EPA shall not seek civil penalties pursuant to Section 106 or 122(*l*) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated

penalty is provided in this Settlement Agreement, except in the case of a willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 64 (Work Takeover).

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

XVIII. COVENANTS BY EPA AND LDEQ

61. Covenants for Settling Respondent by EPA. In consideration of the actions that will be performed and the payments that will be made by Settling Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Settling Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), or Section 7003 of RCRA, 42 U.S.C. § 6973, or any other law, for the Work, Past Response Costs, and Future Response Costs. This covenant shall take effect upon receipt by EPA of the payment required by Paragraph 38 (Payment for Past Response Costs) and any Interest or Stipulated Penalties due thereon under Paragraph 40 (Interest) or Section XVII (Stipulated Penalties). This covenant is conditioned upon the complete and satisfactory performance by Settling Respondent of its obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Paragraph 39 (Payments for Future Response and Removal Costs). This covenant extends only to Settling Respondent and does not extend to any other person.

62. Covenants for Settling Federal Agency by EPA. In consideration of the payment(s) that will be made by the United States on behalf of Settling Federal Agency under this Settlement Agreement, and except as specifically provided in Section XX (Reservations of Rights by EPA), EPA covenants not to take administrative action against Settling Federal Agency pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), or Section 7003 of RCRA, 42 U.S.C. § 6973, or any other law, for the Work, Past Response Costs, and Future Response Costs. This covenant shall take effect upon receipt of the Initial Payment due under Paragraph 38.1.b and any Interest due thereon under Paragraph 38.1.e and is conditioned upon the complete and satisfactory performance by Settling Federal Agency of all obligations under this Settlement Agreement. This covenant extends only to Settling Federal Agency and does not extend to any other person.

62.1 Covenants for Settling Federal Agency by LDEQ. In consideration of the payment(s) that will be made by the United States on behalf of Settling Federal Agency under this Settlement Agreement, LDEQ covenants not to take administrative action or initiate any judicial proceeding against Settling Federal Agency pursuant to CERCLA, RCRA, or any other federal or State law, for the Work, Past Response Costs, Future Response Costs, Future Removal Costs, or any costs incurred by LDEQ related to the Site. This covenant shall take effect upon receipt of the Initial Payment due under Paragraph 38.1.b and any Interest due thereon under Paragraph 38.1.e and is conditioned upon the

complete and satisfactory performance by Settling Federal Agency of all obligations under this Settlement Agreement. This covenant extends only to Settling Federal Agency and does not extend to any other person. Nothing in this Covenant is to be construed as preventing LDEQ from taking any action authorized by law or regulation against the Settling Federal Agency for any violations of law or regulation that may take place subsequent to this Settlement Agreement or for violations undiscovered as of the Effective Date of this Settlement Agreement.

XIX. RESERVATIONS OF RIGHTS BY EPA

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

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

a. liability for failure by Settling Respondent or Settling Federal Agency to meet a requirement of this Settlement Agreement;

b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;

c. liability for performance of response action other than the Work;

d. criminal liability;

e. liability for violations of Federal or State law that occur during or after implementation of the Work;

f. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

g. liability arising from the past, present, or future disposal, release or threat of release of hazardous substances outside of the Site; and

h. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site not paid as Future Response Costs under this Settlement Agreement.

65. Work Takeover. In the event EPA determines that Settling Respondent has ceased implementation of any portion of the Work, is seriously or repeatedly deficient or late in its performance of the Work, or is implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may issue a written notice ("Work Takeover Notice") to Settling Respondent and assume the performance of all or any portion(s) of the Work as EPA deems necessary ("Work Takeover"). Any Work Takeover Notice issued by EPA (which writing may be electronic) will specify the grounds upon which such notice was issued. Settling Respondent may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. However, notwithstanding Settling Respondent's invocation of such dispute resolution procedures, and during the pendency of any such dispute, EPA may in its sole discretion commence and continue a Work Takeover until the earlier of the date that Settling Respondent remedies, to EPA's satisfaction, the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, or the date that a written decision terminating such Work Takeover is rendered in accordance with Paragraph 44. Funding of Work Takeover costs is addressed under Paragraph 89. Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law. Settling Respondent will not be liable for ceasing the implementation of work caused solely by the non-payment of funding specified under Paragraph 38.1.b.

XX. COVENANTS BY SETTLING RESPONDENT AND SETTLING FEDERAL AGENCY

66. Covenants by Settling Respondent. Settling Respondent covenants not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, Future Removal Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Louisiana 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;

c. any claim pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or State

law relating to the Work, Past Response Costs, or Future Response Costs, Past Response Costs, or Future Removal Response Costs; or

d. any direct or indirect claim for return of unused amounts from the Explo Site Future Response Costs Special Account, except for unused amounts that EPA determines shall be returned to Settling Respondent in accordance with Paragraph 39.d.

66.1. Covenant by Settling Federal Agency. Settling Federal Agency covenants and agrees not to assert any direct or indirect claim for reimbursement from the Settling Respondent and the EPA Hazardous Substance Superfund through CERCLA Sections 106(b)(2), 107, 111, 112, 113 or any other provision of law with respect to the Work, Future Removal Costs, and this Settlement Agreement. This covenant will be waived if Settling Respondent fails to perform its obligations under this Settlement Agreement. This covenant also does not preclude the United States on behalf of Settling Federal Agency from enforcing this Settlement Agreement.

67. Except as provided in Paragraphs 70 (Claims Against *De Micromis* Parties), and 72 (Claims Against *De Minimis* and Ability to Pay Parties), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to any of the reservations set forth in Section XIX (Reservations of Rights by EPA), other than in Paragraph 64.a (liability for failure to meet a requirement of the Settlement Agreement), 64.d (criminal liability), and 64.e (liability for violations of Federal or State law that occur during or after implementation of the Work), but only to the extent that Settling Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

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

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

70. Claims Against *De Micromis* Parties. Settling Respondent agrees not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) that they may have for all matters relating

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

71. The waiver in Paragraph 70 shall not apply with respect to any defense, claim, or cause of action that a Settling Respondent may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Settling Respondent. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of RCRA, 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

72. Claims Against *De Minimis* and Ability to Pay Parties. Settling Respondent agrees not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) that they may have for response costs relating to the Site against any person that has entered or in the future enters into a final Section 122(g) *de minimis* settlement, or a final settlement based on limited ability to pay, with EPA with respect to the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that a Settling Respondent may have against any person if such person asserts a claim or cause of action relating to the Site against such Settling Respondent.

XXI. OTHER CLAIMS

73. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Settling Respondent. The United States or EPA shall not be deemed a party to any contract entered into by Settling Respondent or its directors, officers, employees, agents, successors,

representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

74. Except as expressly provided in Paragraph 70 (Claims Against *De Micromis* Parties), 72 (Claims Against *De Minimis* and Ability to Pay Parties)], and Section XVIII (Covenants by Settling Respondent and Settling Federal Agency), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Settling Respondent, the Settling Federal Agency, or any person not a Party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages, and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

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

XXII. EFFECT OF SETTLEMENT/CONTRIBUTION

76. Except as provided in Paragraphs 70 (Claims Against *De Micromis* Parties), and 72 (Claims Against *De Minimis* and Ability to Pay Parties), nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section XX (Covenants by Settling Respondent and Settling Federal Agency), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

77. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and that Settling Respondent and Settling Federal Agency are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), or as may be otherwise provided by law, for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work, Past Response Costs, Future Response Costs, and Future Removal Costs. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Respondent and Settling Federal Agency have, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

78. The Settling Respondent shall, with respect to any suit or claim brought by it for matters related to this Settlement Agreement, notify EPA in writing no later than 60 days prior to

the initiation of such suit or claim. The Settling Respondent also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within 10 days after service of the complaint or claim upon it. In addition, the Settling Respondent shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

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

80. Effective upon signature of this Settlement Agreement by a Settling Respondent, such Settling Respondent agrees that the time period commencing on the date of its signature and ending on the date EPA receives from such Settling Respondent the payment(s) required by Section XIV (Payment of Response and Removal Costs) and, if any, Section XVII (Stipulated Penalties) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the "matters addressed" as defined in Paragraph 77 and that, in any action brought by the United States related to the "matters addressed," such Settling Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Settling Respondent that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by EPA.

XXIII. INDEMNIFICATION

81. Settling Respondent shall indemnify, save, and hold harmless the United States, its officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Settling Respondent, its officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Settling Respondent agrees to pay the United States all costs incurred by the United States, including but not limited to attorney's fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Settling Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Settling Respondent in carrying out activities pursuant to this Settlement Agreement. Neither Settling Respondent nor any such contractor shall be considered an agent of the United States.

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

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

XXIV. INSURANCE

84. At least 7 days prior to commencing any on-site Work under this Settlement Agreement, Settling Respondent shall either secure or cause its removal action contractor to secure, and shall maintain for the duration of this Settlement Agreement, commercial general liability insurance with limits of 5 million dollars, for any one occurrence, and automobile insurance with limits of 3 million dollars, combined single limit, naming the EPA as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Settling Respondent pursuant to this Settlement Agreement. Within the same time period, Settling Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy. Settling Respondent shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Settling Respondent shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Settling Respondent in furtherance of this Settlement Agreement. If Settling Respondent demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Settling Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

84.1 Settling Respondent's Insurance Claims – Consistent with Section XIV. (Payment of Response and Removal Costs), the Settling Respondent is required to make payments under this Settlement Agreement from any insurance proceeds (i.e., up to 4 million dollars) the Settling Respondent receives due to its legal action against the insurers of Explo Systems, Inc. In addition, the Settling Respondent shall provide verbal notice within three (3) days, and written notice within five (5) days of any settlement-in-principle, final settlement agreement, judgment or court order that resolves the legal action. The verbal and written notice shall specify the amount of insurance proceeds awarded to the Settling Respondent, and the projected time-frame when the insurance proceeds will be received by the Settling Respondent. The Settling Respondent shall prepare and submit an

Explo Litigation and Settlement Status Report every six (6) months commencing from the Effective Date of this Settlement Agreement. The Explo Litigation and Settlement Status Report shall identify the phase of the legal action (i.e., Pre-trial Phase, Trial Phase, and Post Trial), the present status of the legal action within any given phase, the projected schedule for each phase of the litigation, the likelihood of obtaining a settlement or judgment, the status of negotiations, and the projected schedule for obtaining a settlement agreement and/or a court order resolving the matter. The Status Reports requirement under this Paragraph will cease upon written notification to EPA and DOJ, consistent with the notifications required under this Paragraph, that the Settling Respondent has either achieved a final settlement agreement, or obtained a court order awarding a sum certain to the Settling Respondent, and the Settling Respondent has made all insurance proceeds payments required under this Settlement Agreement.

Except as otherwise provided in this Settlement Agreement, Settling Respondent shall direct all submissions required under this Paragraph to:

Chief, Environmental Defense Section
Environment and Natural Resources Division
U.S. Department of Justice (Re: DJ# 90-7-3-20143)
P.O. Box 7611
Washington, DC 20044

Section Chief, Enforcement Assessment (6SF-TE)
United States Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733

XXV. FINANCIAL ASSURANCE

85. In order to ensure completion of the Work, Settling Respondent shall utilize within the Settling Respondent's appropriated accounting and funding systems, a mechanism to earmark, set aside and maintain the funds disbursed to Settling Respondent under this Settlement Agreement; and submit specific accounting and funding mechanism documentation to EPA as a written financial assurance, initially in the amount of $19,312,648.13, for the benefit of EPA. The financial assurance must be evidenced in writing and satisfactory in form and substance to EPA. Consistent with the above, the Settling Respondent shall:

a. Provide EPA with a written statement explaining the Settling Respondent's appropriated accounting and funding systems and the mechanisms available and utilized to set aside the funds received by the Settling Respondent under this Settlement Agreement. The written statement shall be accompanied with specific documentation evidencing the availability and utility of accounting and funding systems; the availability and utility of mechanisms to earmark and set aside funds solely for the removal and destruction and M6 propellant and CBI; and

specific documentation demonstrating that the funds disbursed to the Settling Respondent under this Settlement Agreement have been set aside and earmarked solely for the removal and destruction of M6 propellant and CBI.

b. Provide EPA with a written certification that the funds received by the Settling Respondent under this Settlement Agreement shall be set aside and used solely for the removal and destruction of the M6 propellant and CBI located at the Site. The Settling Respondent shall also certify under penalty of law that it will not utilize the funds obtained under this Settlement Agreement for any purpose not authorized under the Settlement Agreement. The Settling Respondent shall also certify that should EPA invoke the Work Takeover provisions as provided in this Settlement Agreement, the Settling Respondent shall comply will all requirements under this Settlement Agreement requiring the Settling Respondent to immediately transfer the funds over to EPA.

86. Within 30 days after the Effective Date, Settling Respondent shall submit all executed or otherwise finalized mechanisms or other documents required, in a form required under Paragraph 85 that includes the Superfund Division Director as the Region 6 recipient, at the mailing address:

Superfund Division Director (6SF)
United States Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733.

87. Settling Respondent agrees that EPA may also, based on a belief that the Settling Respondent may no longer satisfy the financial assurance requirements of Paragraph 85 and this Section, require the Settling Respondent to demonstrate in writing its compliance with Paragraph 85 and this Section (Financial Assurance).

88. Settling Respondent shall diligently monitor the adequacy of the financial assurance. In the event that EPA determines and so notifies Settling Respondent, or the Settling Respondent becomes aware of information indicating, that the financial assurance provided pursuant to this Section is inadequate or otherwise no longer satisfies the requirements set forth in this Section, Settling Respondent shall notify EPA of the inadequacy within 30 days and, within 30 days after providing to or receiving from EPA such notice, shall obtain and submit to EPA for approval a proposal for a revised or alternative form of financial assurance that satisfies the requirements set forth in this Section. If EPA approves the proposal, Settling Respondent shall provide a revised or alternate financial assurance mechanism in compliance with and to the extent permitted by such written approval and shall submit all documents evidencing such change to EPA pursuant to the delivery instructions in Paragraph 86 within 30 days after receipt of EPA's written approval. In seeking approval for a revised or alternate form of financial assurance, Settling Respondent shall follow the procedures set forth in Paragraph 90. If EPA

does not approve the proposal, Settling Respondent shall follow the procedures set forth in Paragraph 90 to obtain and submit to EPA for approval another proposal for a revised or alternate form of financial assurance within 30 days after receipt of EPA's written disapproval.

89. The issuance of a Work Takeover Notice pursuant to Paragraph 65 (Work Takeover) shall trigger EPA's right to receive the benefit of any financial assurances provided pursuant to this Section. At such time, EPA shall have the right to enforce performance under the relevant financial assurance mechanism and/or immediately access resources guaranteed under any such mechanism, whether in cash or in kind, as needed to continue and complete all or any portions of the Work assumed by EPA. In the event (a) EPA is unable to promptly secure the resources guaranteed under any such financial assurance mechanism, whether in cash or in kind, necessary to continue and complete the Work assumed by EPA, Settling Respondent shall immediately, or no later than seven (7) calendar days from the date of 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 Work to be performed as of such date, as determined by EPA. All EPA Work Takeover costs not paid pursuant to this Paragraph shall be reimbursed under Section XIV (Payment of Response Costs).

90. Settling Respondent shall not change the amount of, or change the form or terms of, the financial assurance until Settling Respondent requests in writing, and receives written approval from EPA to do so. Any change in the amount of the financial assurance shall be consistent with the payment and funding provisions as provided in Paragraph 38.1.b. Settling Respondent may petition EPA in writing to request such a reduction or change on any anniversary of the Effective Date, or at any other time agreed to by the Parties. Any such petition shall include the estimated cost of the remaining Work and the basis upon which such cost was calculated, and, for proposed changes to the form or terms of the financial assurance, the proposed revisions to the form or terms of the financial assurance. If EPA notifies Settling Respondent that it has approved the requested reduction or change, Settling Respondent may reduce or otherwise change the financial assurance in compliance with and to the extent permitted by such written approval and shall submit all documents evidencing such reduction or change to EPA pursuant to the delivery instructions in Paragraph 86 within 30 days after receipt of EPA's written decision. If EPA disapproves the request, Settling Respondent may seek dispute resolution pursuant to Section XV (Dispute Resolution), provided however, that Settling Respondent may reduce or otherwise change the financial assurance only in accordance with an agreement reached pursuant to Section XV or EPA's written decision resolving the dispute.

91. Settling Respondent shall not discontinue any financial assurance provided pursuant to this Section until: (a) Settling Respondent receives written notice from EPA in accordance with Paragraph 96 that the Work has been fully and finally completed in accordance with this Settlement Agreement; or (b) EPA otherwise notifies Settling Respondent in writing that it may discontinue the financial assurances provided pursuant to this Section. In the event of a dispute, Settling Respondent may seek dispute resolution pursuant to Section XV (Dispute Resolution), and may discontinue the financial assurance required hereunder only in accordance

with an agreement reached pursuant to Section XV or EPA's written decision resolving the dispute.

XXVI. MODIFICATION

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

93. If Settling Respondent seeks permission to deviate from any approved work plan or schedule, or Statement of Work, Settling Respondent's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Settling Respondent may not proceed with the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 92.

94. No informal advice, guidance, suggestion, or comment by the OSC or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Settling Respondent shall relieve Settling Respondent of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified. The Settling Respondent may seek permission to extend any schedule or deadline required by the Settlement Agreement by submitting the request to EPA in writing outlining the proposed extension and the basis for such extension. EPA, in its discretion may extend, modify or deny the extension request. The Settling Respondent shall comply with all schedules and deadlines unless it receives oral or written approval from EPA. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of EPA's oral direction. All non-removal work requests made under this Paragraph shall be submitted to the Section Chief, Enforcement Assessment (6SF-TE) as identified in Paragraph 84.1. All removal and Statement of Work related requests made under this Paragraph shall be submitted to the OSC consistent with Paragraph 92.

XXVII. ADDITIONAL REMOVAL ACTION

95. If EPA determines that additional removal actions concerning M6 or CBI not included in the Removal Work Plan, or other approved plan are necessary to protect public health, welfare, or the environment, and such additional removal actions are consistent with the Statement of Work, EPA will notify Settling Respondent and the United States Department of Justice, on behalf Settling Federal Agency, of that determination. Unless otherwise stated by EPA, within 30 days after receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment, Settling Respondent shall submit for approval by EPA a work plan for the additional removal actions. The plan shall conform to the applicable requirements of Section VIII (Work to Be Performed) of this Settlement Agreement. Upon EPA's approval of the plan pursuant to Paragraph 17 (Work Plan and Implementation), Settling Respondent shall implement the plan for additional removal actions in

accordance with the provisions and schedule contained therein. This Section does not alter or diminish the OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXVI (Modification).

XXVIII. NOTICE OF COMPLETION OF WORK

96. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including Post-Removal Site Controls, payment of Future Response Costs, and record retention, EPA will provide written notice to Settling Respondent. If EPA determines that such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Settling Respondent, provide a list of the deficiencies, and require that Settling Respondent modify the Work Plan if appropriate in order to correct such deficiencies. Settling Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Settling Respondent to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

XXIX. PUBLIC COMMENT

97. Final acceptance by EPA of Paragraphs 38.a and 38.1a within Section XIV that addresses the costs that are being compromised and included in this Settlement Agreement, shall be subject to Section 122(i) of CERCLA, 42 U.S.C.§ 9622(i), which requires EPA to publish notice of the proposed settlement in the Federal Register, to provide persons who are not parties to the proposed settlement an opportunity to comment, solely, on the cost recovery component of the settlement, and to consider comments filed in determining whether to consent to the proposed settlement. EPA may withhold consent from, or seek to modify, all or part of Section XIV of this Settlement Agreement if comments received disclose facts or considerations that indicate that Section XIV of this Settlement Agreement is inappropriate, improper, or inadequate. Otherwise, Section XIV shall become effective when EPA issues notice to Settling Respondent that public comments received, if any, do not require EPA to modify or withdraw from Section XIV of this Settlement Agreement.

XXX. ATTORNEY GENERAL APPROVAL

98. The Attorney General or his/her designee has approved the response cost settlement embodied in this Settlement Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1). This Settlement Agreement is also entered into pursuant to the authority of the Attorney General of the United States to compromise and settle claims of the United States.

XXXI. INTEGRATION/APPENDICES

99. This Settlement Agreement and its appendices constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement

embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement.

XXXII. EFFECTIVE DATE

100. This Settlement Agreement shall be effective 7 days after the Settlement Agreement is signed by the Region 6 Superfund Division Director, with the exception of Paragraphs 38.a and 38.1a within Section XIV (Payment of Response and Removal Costs), which shall be effective when EPA issues notice to Settling Respondent and the Settling Federal Agency that public comments received, if any, do not require EPA to modify or withdraw from Paragraphs 38.a and 38.1a compromise included within this Settlement Agreement.

XXXIII. WITHDRAWAL OF ORDERS

101. Upon the Effective Date of this Settlement Agreement, EPA shall withdraw the RCRA 7003 Order EPA issued to Settling Federal Agency on March 18, 2014. EPA shall send written notice of the RCRA 7003 Order withdrawal to Settling Federal Agency within 7 days after EPA signs this Settlement Agreement.

102. The Parties agree that the Administrative Order issued by LDEQ to Settling Federal Agency under the laws of the State of Louisiana dated June 3, 2014, shall be deemed withdrawn and superseded by this Settlement Agreement upon the Effective Date of the Settlement Agreement. LDEQ shall send written notice confirming that it deemed the Administrative Order withdrawn and superseded by this Settlement Agreement as of the Effective Date to Settling Federal Agency within 7 days of the Effective Date.

The undersigned representative of Settling Respondent certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement, CERCLA Docket No. 06-08-14, and to bind the party it represents in the Matter of Explo Systems, Inc. Site.

Agreed this 30th day of September, 2014.

For Settling Respondent (Louisiana Military Department)

By: Glenn H. Curtis

Glenn H. Curtis
Major General, Louisiana National Guard
The Adjutant General, State of Louisiana
6400 St. Claude Avenue,
Jackson Barracks, New Orleans, Louisiana 70117

The undersigned representative for the LDEQ certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement, CERCLA Docket No. 06-08-14, and to bind the Party it represents in the Matter of Explo Systems, Inc. Site.

Agreed this 30th day of September, 2014.

For LDEQ

By: Peggy M. Hatch

Peggy M. Hatch
Secretary
Louisiana Department of Environmental Quality
602 North Fifth Street
P.O. Box 4301
Baton Rouge, LA 70821-4301

The undersigned representative for the Setting Federal Agency certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement, CERCLA Docket No. 06-08-14, and to bind the Party it represents in the Matter of Explo Systems, Inc. Site.

Agreed this 20th day of October, 2014.

For Setting Federal Agency (United States Army)

By: _____

Craig R. Schmauder
Deputy General Counsel
Installations, Environment & Civil Works
Department of the Army
104 Army Pentagon
Washington, D.C. 20310-0104

The undersigned Party enters into this Settlement Agreement, CERCLA Docket No. 06-08-14, in the Matter of Explo Systems, Inc. Site.

It is so ORDERED and Agreed this 28th day of October, 2014.

By: _____

Carl Edlund, P.E.
Superfund Division Director
EPA Region 6
U.S. Environmental Protection Agency

EFFECTIVE DATE: November 1, 2014

APPENDIX A – STATEMENT OF WORK

Statement of Work
EXPLO Systems, Inc.
Minden, Webster Parish, Louisiana

1) Site Background

The Explo Site (Site) is located on a portion of Camp Minden, La., in the northwestern corner of the State of Louisiana, in Webster Parish, near the town of Doyline. The Site includes the S-line which occupies 110 acres where Explo Systems, Inc. (Explo) conducted demilitarization operations, and all areas where Explo stored explosive materials.

2) Site History

On October 15, 2012, an explosion of a magazine and a box van trailer containing black/smokeless powder and M6 propellant occurred at the Explo Site. The explosion shattered windows in Minden, La. located approximately four miles northeast of the Site, and produced a 7,000 foot mushroom cloud. As a result of the violations observed during inspection of the explosion, the Louisiana State Police ("LSP") served a search warrant on Explo Systems, Inc. The search warrant was executed on November 27, 2012. During the search, LSP identified approximately 10 million pounds of unsecured and improperly stored M6 propellant.

Additional investigation of the Explo Site revealed the improper storage of several materials. Those materials included black powder, Composition H6, ammonium perchlorate, ammonium picrate, M30 propellant, Clean Burning Incendiary (CBI, nitrocellulose, tritonal mixed with wax/tar, and M6 propellant. As a result of the above, the work described below is needed at the Site.

3) Work to be Performed

a) Settling Respondent shall conduct a removal action of the following hazardous substances, pollutants and contaminants currently stored at the Site to include:
   i) Approximately 15,687,247 pounds of M6 propellant;
   ii) Approximately 320,890 pounds of clean burning igniter (CBI); and
   iii) The Settling Respondent shall also conduct response action to address effluent, ammonium perchlorate, and ammonium picrate identified in Paragraph 3.p.

b) The Settling Respondent shall employ the use of on-site open burning in burn trays as the disposition option to destroy the M6 propellant and CBI listed above in Paragraph 3.a.

c) Settling Respondent shall generate and provide a proposed work plan that includes, but is not limited to staffing requirements and limitations, travel/mobilization costs and requirements, necessary equipment as well as availability/limitations of necessary equipment required and available materials, proposed disposition methods, total and itemized cost, and duration for each phase (if applicable), and timeline/schedule.

d) Limitations concerning the volume to be destroyed should be accounted for when calculating the total cost and time required for disposition of the total volume of materials listed in 3.a. Potential limitations are:

i) Minimum safe distance limitations on the maximum volume of material that can be disposed of at one time;

ii) Limitations due to the maximum volume of material that can be disposed of each day, due to maintenance of the disposition areas or other reasons;

iii) Permit and/or capacity requirements/limitations for volume and/or location of the disposition; and

iv) Provide any other limitations, qualifications, assumptions that impact the implementation of the proposed work plan.

e) Settling Respondent shall establish procedures to determine the priority of the removal of the materials listed above in Paragraph 3.a. The Settling Respondent shall maintain the prioritization program by conducting periodic assessment of the storage magazines and materials listed above in Paragraph 3.a and adjust the prioritization accordingly.

f) Settling Respondent shall verify and provide the availability of licensed and experienced personnel that will be available. The proposed Work Plan shall reflect compliance with State and Federal statutory requirements. Settling Respondent shall provide its process for ensuring compliance with State and Federal statutory requirements.

g) Settling Respondent shall prepare a Spill and Emergency Response Contingency Plan – Settling Respondent must implement the plan after approval by the OSC. The following items must be addressed in detail – (1) Response to spills or releases at and/or from the Site to address both the workers on-site and the public exposure, (2) Response analysis for conceivable occurrences (i.e. who and what will respond, alternative communication methods), (3) Call-down list for notification, (4) Coordination mechanism with State and local authorities.

h) Settling Respondent shall inspect the magazines containing the materials listed above in Paragraph 3.a. and conduct maintenance or repairs as necessary to safely access and store hazardous and/or explosive materials. Magazine maintenance and/or repairs should be conducted in compliance with the safety procedures for Camp Minden.

i) Settling Respondent shall conduct fire protective measures to maintain a low fuel burden around magazine storage areas. Settling Respondent shall respond to and take actions to control fires in compliance with the safety procedures for Camp Minden.

j) Settling Respondent shall continue to provide the routine security measures in place for Camp Minden as well as provide additional security measures as necessary to support the removal of the materials listed above in paragraph 3.a.

k) Settling Respondent shall provide storage magazines for the continued storage of the materials listed above in paragraph 3.a. to include the 97 currently utilized storage magazines and any additional available magazine space, or storage containers, as needed to support the removal of the materials listed above in paragraph 3.a.

l) Settling Respondent shall provide continued access for United States agents, EPA agents and representatives, contractors, and other assets throughout the removal of the materials listed above in paragraph 3.a. Access will be required during normal working hours unless arranged for in advance.

m) Settling Respondent shall maintain access roads to all work areas necessary for the removal of the materials listed above in paragraph 3.a. Settling Respondent shall allow the use of Camp Minden Site property for the open burning (i.e., via burn trays) of materials listed in Paragraph 3.a. Settling Respondent shall clear the Camp Minden Site property designated for the burning of materials listed in Paragraph 3.a.

n) Settling Respondent shall allow the use of its forklifts and loading ramps to facilitate the open burning of materials listed in Paragraph 3.a.

o) Settling Respondent shall propose achievable milestones by which to gauge the work performed (i.e., date to initiate action, date to complete the removal of 25%, 50%, 75% of the material, completion date for the removal of all materials listed in 3.a).

p) Settling Respondent shall conduct a removal action of the effluent associated with the Super Critical Water Oxidation Unit (SCWO) at the Site, four 55-gallon drums of ammonium perchlorate, two 35-gallon drums of ammonium perchlorate, and three 55-gallon drums of ammonium picrate. Settling Respondent shall conduct appropriate disposition actions for the SCWO effluent, ammonium perchlorate, and ammonium picrate, and take other actions consistent with Paragraph 3.c-o.

4) Work Plan and Implementation

a) Within 120 days after the Effective Date of the Settlement Agreement, submit to EPA for approval a draft work plan for performing the removal action (the "Removal Work Plan") generally described in Paragraphs 3.a – g. The draft Removal Work Plan shall provide a description of and an expeditious schedule for, the actions described within this Statement of Work.

b) EPA may approve, disapprove, require revisions to, or modify the draft Removal Work Plan in whole or in part. If EPA requires revisions, submit a revised draft Removal Work Plan within 14 days after receipt of EPA's notification of the required revisions. Implement the Removal Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA.

c) Upon approval of the Removal Work Plan, implementation of the Work will commence, in accordance with the predetermined schedule. Any additional plans, reports, or other deliverables that require EPA approval under the SOW or Removal Work Plan shall be reviewed and approved by EPA in accordance with this Paragraph.

5) Health and Safety Plan

Within 120 days after the Effective Date of the Settlement Agreement, submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-Site work in accordance with this Statement of Work. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. The plan shall also include contingency planning. Incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

6) Quality Assurance, Sampling, and Data Analysis

a) Utilize quality assurance, quality control, and other technical activities and chain of custody procedures for all samples consistent with "EPA Requirements for Quality Assurance Project Plans (QA/R5)" (EPA/240/B-01/003, March 2001, reissued May 2006), "Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/240/R-02/009, December 2002), and subsequent amendments to such guidelines upon notification by EPA of such amendment. Amended guidelines shall apply only to procedures conducted after such notification.

b) Prior to the commencement of any monitoring project in accordance with this Statement of Work, submit to EPA for approval, a Quality Assurance Project Plan ("QAPP") that is consistent with the SOW, and the NCP. Ensure that EPA and State regulator personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized for the implementation of this Statement of Work. In addition, ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPP for quality assurance, quality control, and technical activities that will satisfy the stated performance criteria as specified in the QAPP. Ensure that the laboratories they utilize for the analysis of samples taken in accordance with this Statement of Work perform all analyses according to accepted EPA methods. Accepted EPA methods consist of, but are not limited to, methods that are documented in the EPA's Contract Laboratory Program (http://www.epa.gov/superfund/programs/clp/), SW 846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (http://www.epa.gov/epawaste/hazard/testmethods/sw846/online/index.htm), "Standard Methods for the Examination of Water and Wastewater" (http://www.standardmethods.org/), 40 C.F.R. Part 136, "Air Toxics - Monitoring Methods" (http://www.epa.gov/ttnamti1/airtox.html)," and any amendments made thereto during the course of the implementation of this Statement of Work. However, upon approval by EPA, other appropriate analytical methods may be utilized, as long as: (a) quality assurance/quality control ("QA/QC") criteria are contained in the methods and the methods are included in the QAPP, (b) the analytical methods are at least as stringent as the methods listed above, and (c) the methods have been approved for use by a nationally recognized organization responsible for verification and publication of analytical methods, e.g., EPA, ASTM, NIOSH, OSHA, etc. Ensure that all laboratories they use for analysis of samples taken during actions performed in accordance with this Statement of Work have a documented 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), and "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001, reissued May 2006), or equivalent documentation as determined by EPA. EPA may consider Environmental Response Laboratory Network ("ERLN") laboratories, laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP"), or laboratories that meet International Standardization Organization (ISO 17025) standards or other nationally recognized programs (http://www.epa.gov/fem/accredit.htm) as meeting the Quality System requirements. Ensure that all field methodologies utilized in collecting samples for subsequent analysis performed during the course of the implementation of this Statement of Work are conducted in accordance with the procedures set forth in the QAPP approved by EPA.

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

d) Submit to EPA the results of all sampling and/or tests or other data obtained or generated with respect to the Site and/or the implementation of this Statement of Work unless EPA agrees otherwise.

e) The EPA retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes and regulations.

7) Post-Site Removal Control

In accordance with the Removal Work Plan schedule, or as otherwise directed by EPA, submit a proposal for Post-Removal Site Control which shall include, but not be limited to: a) a Post-Site Control and Implementation Plan specifying the objectives, and who is responsible for implementation, monitoring, inspection, reporting and enforcement. Upon EPA approval, either conduct Post-Removal Site Control activities, or obtain a written commitment from another party for conduct of such activities, until such time as EPA determines that no further Post-Removal Site Control is necessary. Provide EPA with documentation of all Post-Removal Site Control commitments.

8) Reporting

Submit a written progress report to EPA concerning the actions listed in this Statement of Work every 21st day after the date of receipt of EPA's approval of the Work Plan until completion of the work described in the work plan approved by EPA, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting

period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

9) Final Report

Within 30 days after completion of all Work described within this Statement of Work, submit for EPA review and approval a final report summarizing the actions taken to complete the actions described within this Statement of Work. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports," and EPA Guidance (i.e., Superfund Removal Procedures: Removal Response Reporting – POLREPS and OSC Reports" - OSWER Directive No. 9360.3-03, June 1, 1994). The final report shall include a good faith estimate of total costs or a statement of actual costs incurred, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposition options considered for those materials, a listing of the ultimate destination of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a responsible corporate official or Project Coordinator:

i) "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

10) Off-Site Shipments

a) Any and all shipment of hazardous substances, pollutants and contaminants from the Site to an off-Site facility must comply with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Compliance with CERCLA Section 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment will be deemed compliant if a prior determination from EPA is obtained indicating that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b). Investigation Derived Waste (IDW) from the Site may be shipped to an off-Site facility in compliance with EPA's "Guide to Management of Investigation Derived Waste," OSWER 9345.3-03FS (Jan. 1992).

b) The shipment of any Waste Material from the Site to an out-of-state waste management facility will be permitted only if, prior to any shipment, a written notice is provided to the appropriate state environmental official in the receiving facility's state and to the OSC. This written notice requirement shall not apply to any off-Site shipments when the total quantity of all such shipments will not exceed ten cubic yards. The written notice must include the following information, if available: (1) the name and location of the receiving

facility; (2) the type and quantity of Waste Material to be shipped; (3) the schedule for the shipment; and (4) the method of transportation. Notify the state environmental official referenced above and the OSC of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Provide the written notice after the award of the contract for the removal action and before the Waste Material is shipped.